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VOLUME I

TRANSCRIPT OF RECORD

Supreme Court of the United States

OCTOBER TERM, 1964

No. 67

LOUISIANA, ET AL., APPELLANTS,

vs.

UNITED STATES.

APPEAL FROM THE UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF LOUISIANA

FILED MAY 5, 1964
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[fol. 1] [File endorsement omitted]

IN THE UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF LOUISIANA

BATON ROUGE DIVISION

Division C 2548

UNITED STATES OF AMERICA, Plaintiff,

v.

STATE OF LOUISIANA; JIMMIE H. DAVIS, C. C. AYCOCK, J. THOMAS JEWEL, as members of the Board of Registration of the State of Louisiana; and HUGH E. CUTRER, JR., Director and Ex Officio Secretary of the Board of Registration of the State of Louisiana, Defendants.

COMPLAINT—Filed December 28, 1961

The United States of America alleges that:

1. This action is instituted by the Attorney General of the United States pursuant to the provisions of 42 U.S.C. 1971, as amended, and pursuant to 28 U.S.C. 2201.

2. This Court has jurisdiction of this action under 42 U.S.C. 1971(d), 28 U.S.C. 1345 and 28 U.S.C. 2281.

[fol. 2] 3. Jimmie H. Davis, C. C. Aycock and J. Thomas Jewel are members of the Board of Registration of the State of Louisiana by virtue of their official positions as Governor, Lieutenant Governor and Speaker of the House of Representatives of the State of Louisiana, respectively. Each of these defendants has an office in Baton Rouge, Louisiana. The Board of Registration is an agency of the defendant State of Louisiana. The office of the Board is in Baton Rouge, Louisiana.

4. Hugh E. Cutrer, Jr., is the Director and Ex Officio Secretary of the Board of Registration and in that capacity is an agent of the defendant State. His office is in Baton Rouge, Louisiana.

5. Under the Constitution and laws of Louisiana, the Board of Registration is required to prescribe by general rules and regulations the method of the administration of the voter registration laws and procedures and the character and forms of records and documents used in the registration process. The Board is authorized to remove, at will, any registrar of voters in the State of Louisiana. It is the duty of the defendant Director, Hugh E. Cutrer, Jr., who was appointed by the Board, to administer the rules and regulations of the Board, and to perform such other duties as may be directed by the Board in connection with the powers of the Board and the promotion of registration of the voters of the State.

6. The right to vote is essential to a republican form of government. It is secured by Sections 2 and 4 of Article I of the Constitution of the United States and by the Fourteenth, Fifteenth, and Seventeenth Amendments thereto.

[fol. 3] 7. Under Louisiana law, registration is, and has been since at least 1898, a prerequisite to voting in any election. In 42 of the 64 parishes registration is permanent.

8. Each parish in Louisiana has a registrar of voters who is an appointed official and an agent of the defendant State. All registrars of voters in the State of Louisiana since at least 1898 have been white citizens. Under Louisiana law registrars of voters determine whether each applicant for registration is qualified to vote.

9. Prior to the adoption of the Louisiana Constitution of 1898 approximately 44 percent of the registered voters in Louisiana were Negroes. The Constitution of 1898 established literacy and property requirements as conditions prerequisite to voting but exempted from these requirements all persons who were entitled to vote on or before January 1, 1867, and their sons and grandsons. This exemption is hereafter referred to as the "grandfather clause."

10. Under the operation of the "grandfather clause" white political supremacy became a fact in Louisiana. In 1910 only six-tenths of one percent of the registered voters in Louisiana were Negroes.

11. The Louisiana Constitution of 1921 replaced the "grandfather clause" with an interpretation test, a similar "grandfather clause" having been invalidated under the Fifteenth Amendment by the United States Supreme Court in 1915. Article VIII, Section I of the Louisiana Constitution of 1921 provided that a citizen in Louisiana, otherwise qualified, could register to vote if he were able to read any [fol. 4] clause in the Louisiana Constitution or the Constitution of the United States and give a reasonable interpretation thereof. A citizen unable to read and write could qualify if he were able to understand and give a reasonable interpretation of any section of either Constitution when read to him by the registrar of voters. The purpose of adopting this interpretation test was to provide a means by which the disfranchisement of Negroes could be perpetuated. This test was adopted in a state where the public educational facilities were and are racially segregated.

12. From 1921, when the interpretation test was adopted until 1944, the percentage of registered voters in Louisiana who were Negroes never exceeded one-half of one percent. In 1944 the United States Supreme Court invalidated the practice of excluding Negroes from participation in primary elections. Prior to that time, Negroes were not permitted to vote in Democratic primary elections in Louisiana.

13. During the period from 1944 until March 1956, the percentage of registered voters in Louisiana who were Negroes rose from two-tenths of one percent to approximately fifteen percent. Many registrars of voters in Louisiana did not apply the interpretation test during this period.

14. In 1954, following the decision of the Supreme Court declaring unconstitutional the maintenance by states of racially segregated public schools, the Legislature of Louisiana created a Joint Legislative Committee to study means by which white supremacy and racial segregation could be [fol. 5] preserved in Louisiana. This Committee is hereafter referred to as the Committee on Segregation.

15. The Chairman of the Committee on Segregation, William M. Rainach, was a State Senator from a District, the 27th, which has a large population of Negroes, virtually none of whom are registered to vote. While he was Chair-

man of the Committee on Segregation, William M. Rainach helped to organize the Association of Citizens Councils of Louisiana, which was incorporated in January 1956, and became the president and a member of the Board of Directors of the Association.

16. The purpose of the Association of Citizens Councils of Louisiana was to maintain white political supremacy and racial segregation in Louisiana and to organize local citizens' councils and coordinate their activities to promote these ends. Many such councils were organized in Louisiana.

17. To promote the objectives referred to in the preceding paragraph, the local all-white citizens' councils in at least eleven Louisiana parishes, purporting to act under a procedure authorized by Louisiana law, challenged the registration status and caused the removal from the voter registration rolls of thousands of Negro voters, but virtually no white voters.

18. In promoting the purging of Negro voters as described in the preceding paragraph, the Association of Citizens Councils prepared and distributed literature to local citizens' councils, registrars of voters, and other public officials in Louisiana. This literature included a pamphlet entitled "Voter Qualification Laws in Louisiana—the Key to Victory in the Segregation Struggle" urging, among [fol. 6] other things, a strict application of the interpretation test as a means of preserving white political supremacy and racial segregation in Louisiana. A copy of this pamphlet it attached hereto as Appendix A and is incorporated herein.

19. During 1958 and 1959 the Committee on Segregation and the Board of Registration held joint meetings for each of the eight congressional districts of Louisiana. These meetings were attended by public officials or their representatives, including the Committee on Segregation, the Board of Registration, the State Attorney General, registrars of voters, district attorneys, sheriffs, and police jury presidents, as well as by officers and members of the citizens councils, all of whom were white citizens. The purpose of these meetings was to formulate a program for maintaining white political supremacy and racial segregation in Loui-

siana. The position taken by these state agencies was that the strict application of the interpretation test was the key to maintaining white political supremacy and racial segregation. The counsel for the Committee on Segregation told those in attendance that the interpretation test is a test of native intelligence, not "book learning", and that, "experience teaches—that most of our white people have this native intelligence, while most Negroes do not." These state agencies distributed to the persons in attendance at these meetings, including the registrars of voters, the pamphlet described in the preceding paragraph, and sets of 24 cards containing constitutional provisions to be used in administering the interpretation test. A copy of a set of [fol. 7] these test cards is attached as Appendix B and is incorporated herein.

20. The Committee on Segregation also sent letters and other materials to the registrars of voters throughout Louisiana urging the registrars to enforce strictly the interpretation test in order to maintain segregation of the races, stressing that the registrars of voters are on the very front line of the battle to maintain segregation. A copy of one such letter from this Committee to a registrar of voters is attached as Appendix C and is incorporated herein.

21. In certain Louisiana parishes, particularly those in which most of the Negro voters were purged from the registration rolls, the registrars of voters began to require applicants for registration and reregistration to pass the interpretation test. In these parishes, white voters who, with almost no exceptions, had not been purged, were not subjected to the interpretation test. In the eleven parishes referred to in paragraph 17, the total number of white voters increased by 1033, while the total number of Negro voters decreased by 8158 between March and October 1956. From October 1956 until December 1960, the number of white voters in these parishes increased by 3264, while the number of Negro voters decreased by 2205.

22. In some of the parishes of Louisiana, including the four largest, the interpretation test has not been applied as a qualification for voter registration. The interpretation test has been applied in at least twelve parishes. In these twelve parishes less than 5 percent of the Negroes of voting

age were registered to vote as of December 31, 1960. Throughout the rest of the state, over 35 percent of the Negroes of voting age were registered to vote as of that date.

[fol. 8] 23. In November 1960, the voters of Louisiana approved an amendment to Article VIII of the Louisiana Constitution which, among other things, changed the interpretation test to require as a qualification for voting that an applicant for registration be able to *understand* and give a reasonable interpretation of any section of either Constitution. The amendment also requires applicants to read and to write from dictation any portion of the preamble to the Constitution of the United States. The amendment was proposed by the Louisiana Legislature as one of several measures to preserve racial segregation in Louisiana.

24. In October 1961, the Board of Registration, in cooperation with the Committee on Segregation and the State Sovereignty Commission, adopted a resolution requiring all registrars of voters in the State of Louisiana to enforce strictly the interpretation test.

25. The Constitution and laws of Louisiana providing for the interpretation test vest discretion in the registrars of voters to determine the qualifications of applicants for registration. These constitutional and statutory provisions impose no definite and objective standards upon registrars of voters for the administration of the interpretation test. No requirement exists that answers given to the interpretation test be in writing or that they be reduced to writing. These provisions enable and require the registrars of voters in Louisiana to determine subjectively:

(a) The manner in which the interpretation test is to be administered;

[fol. 9]

(b) The length and complexity of the sections of the Constitution to be understood and interpreted by applicants;

(c) What constitutes a reasonable interpretation of any section of the Constitution;

(d) Whether the applicant's understanding and interpretation are satisfactory.

26. The effect of vesting this discretion in Louisiana registrars of voters, as described in the preceding paragraph, has been and is to permit them to deprive otherwise qualified Negro citizens of their right to register and vote without distinction of race or color.

27. The history of the interpretation test, the setting of white political supremacy and racial segregation in which this test was adopted and is enforced, and the discretion which is vested in the registrars of voters in the administration of this test render the interpretation test invalid on its face under 42 U.S.C. 1971(a) and the Fourteenth and Fifteenth Amendments to the Constitution of the United States.

28. The Louisiana Constitution is in excess of 300 printed pages. Its provisions vary widely in subject matter and complexity to include such matters as the requirement that the English language be used in public schools (Art. XII, Sec. 12) and the application of certain debt taxes and water and sewer taxes to the liquidation of certain bonded debt obligations incurred by the City of New Orleans for public improvements (Art. XIV, Sec. 24). Interpretations of certain provisions of the Louisiana Constitution and the Con- [fol. 10] stitution of the United States have differed widely even among those learned in the law.

29. There is no rational or reasonable basis for requiring, as a prerequisite to voting, that a prospective elector otherwise qualified be able to interpret certain sections of the Louisiana Constitution.

30. The defendants, unless restrained by order of this Court, will continue to require and permit registrars of voters to use the interpretation test as a qualification for registration for voting.

Wherefore, plaintiff prays that, pursuant to the provisions of 28 U.S.C. 2281, a District Court of three judges be convened in accordance with the procedures set forth in 28 U.S.C. 2284, and that said Court:

1. Adjudge, declare and decree that the provisions of Article VIII, Section 1 of the Louisiana Constitution and the laws of Louisiana, insofar as they pertain to the interpretation test, are invalid and in violation of the Fourteenth and Fifteenth Amendments to the Constitution of the United States;

2. Issue a preliminary and permanent injunction enjoining the defendants, their agents, employees, and successors, and all persons in active concert and participation with them having actual notice of the Court's decree, from:

(a) Enforcing and giving any further effect to the requirements of Article VIII, Section 1 of the Louisiana [fol. 11] Constitution, and of the statutes implementing Article VIII, Section 1, insofar as they pertain to the interpretation test as a prerequisite to voting.

(b) Engaging in any act which would deprive any citizen in the State of Louisiana of the right to register and the right to vote without distinction of race or color.

(c) Engaging in any acts which would delay, prevent, hinder, or discourage Negro citizens, on account of their race or color from applying for registration and becoming registered voters in the State of Louisiana.

3. Issue all such additional orders which will insure the fair, equal, and non-discriminatory administration of registration procedures in the State of Louisiana.

4. Grant such additional relief as justice may require, together with the costs and disbursements of this action.

Robert F. Kennedy, Attorney General of the United States; Burke Marshall, Assistant Attorney General; M. Hepburn Many, United States Attorney; John Doar, Attorney, Department of Justice.

[fol. 12] CLERK'S NOTE: Appendix "A" to Complaint, pamphlet entitled, "Voter Qualification Laws In Louisiana—The Key To Victory In The Segregation Struggle" is omitted from the record here. It appears as Plaintiff's Exhibit No. 10 on page 195.

Form No. 1

CONSTITUTIONAL TEST FOR REGISTRATION

Applicant shall read to the Registrar of Voters and give a reasonable interpretation of the following clauses of the Constitution:

The United States shall guarantee to every state in this Union a republican form of government. (U. S. Const. Art. IV Sec. 4)

The powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively, or to the people (U. S. Const. 10th Amendment)

No law shall be passed to curtail or restrain the liberty of speech or of the press. (Art. 1 No. 3 La: Const.)

(The above qualification test and a registration application form provided for by Section 1 (c), Article VIII of the Louisiana Constitution, (Form LR-1), were received by me from the ________________ Parish Registrar of Voters upon my request to register, and I have signed both for acknowledgement and identification with my application to register.)

____

Applicant for Registration

Ward Precinct Address ____

(Over)

Form No. 2

CONSTITUTIONAL TEST FOR REGISTRATION

Applicant shall read to the Registrar of Voters and give a reasonable interpretation of the following clauses of the Constitution:

Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof. (U. S. Const. 1st. Amendment)

Every person has the natural right to worship God according to the dictates of his own conscience (Art. 1 No. 4 La. Const.)

Any person may speak, write and publish his sentiments on all subjects, being responsible for the abuse of that liberty (Art. 1, Sec. 3, La. Const.)

form provided for by Section 1 (c), Article government, (U. S. Const. Art. IV Sec. 4)

The powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively, or to the people (U. S. Const. 10th Amendment)

No law shall be passed to curtail or restrain the liberty of speech or of the press, (Art. 1 No. 3 La. Const.)

(The above qualification test and a registration application form provided for by Section 1 (c), Article VIII of the Louisiana Constitution, (Form LR-1), were received by me from the ________ Parish Registrar of Voters upon my request to register, and I have signed both for acknowledgement and identification with my application to register.)

____
Applicant for Registration

Ward ______ Precinct ______ Address ________________________

(Over)

Form No. 2

CONSTITUTIONAL TEST FOR REGISTRATION

Applicant shall read to the Registrar of Voters and give a reasonable interpretation of the following clauses of the Constitution:

Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof. (U. S. Const. 1st. Amendment)

Every person has the natural right to worship God according to the dictates of his own conscience (Art. 1 No. 4 La. Const.)

Any person may speak, write and publish his sentiments on all subjects, being responsible for the abuse of that liberty (Art. 1, Sec. 3, La. Const.)

(The above qualification test and a registration application form provided for by Section 1 (c), Article VIII of the Louisiana Constitution, (Form LR-1), were received by me from the ________ Parish Registrar of Voters upon my request to register, and I have signed both for acknowledgement and identification with my application to register.)

____
Applicant for Registration

Ward ______ Precinct ______ Address ________________________

(Over)

Form No. 3

CONSTITUTIONAL TEST FOR REGISTRATION

Applicant shall read to the Registrar of Voters and give a reasonable interpretation of the following clauses of the Constitution:

The right of the people to be secure in their persons, houses, papers and effects against unreasonable searches and seizures, shall not be violated (Art. 1 Sec. 7 La. Const.)

No person shall be compelled to give evidence against himself in a criminal case, (Art. 1 Sec. 11 La. Const.)

The military shall be in subordination to the civil power (Art. 1 Sec. 4 La. Const.)

(The above qualification test and a registration application form provided for by Section 1 (c), Article VIII of the Louisiana Constitution, (Form LR-1), were received by me from the ________________ Parish Registrar of Voters upon my request to register, and I have signed both for acknowledgement and identification with my application to register.)

____

Applicant for Registration

Ward Precinct Address________________________________

(Over)

Form No. 4

CONSTITUTIONAL TEST FOR REGISTRATION

Applicant shall read to the Registrar of Voters and give a reasonable interpretation of the following clauses of the Constitution:

No ex-post facto law, nor any law impairing the obligation of contracts, shall be passed; (Art. 4 Sec. 15 La. Const.)

Nor shall any vested rights be divested, unless for purpose of public utility, and for just and adequate compensation previously paid (Art. 4, Sec. 15, La. Const.)

No function shall ever be attached to any court of record, or to the judges thereof except such as are judicial (Art. 7 Sec. 3 La. Const.)

(The above qualification test and a registration application form provided for by Section 1 (c), Article

No person shall be compelled to give evidence against himself in a criminal case, (Art. 1 Sec. 11 La. Const.)

The military shall be in subordination to the civil power (Art. 1 Sec. 4 La. Const.)

(The above qualification test and a registration application form provided for by Section 1 (c), Article VIII of the Louisiana Constitution, (Form LR-1), were received by me from the ________________ Parish Registrar of Voters upon my request to register, and I have signed both for acknowledgement and identification with my application to register.)

____
Applicant for Registration

Ward Precinct Address________________________________

(Over)

Form No. 4

CONSTITUTIONAL TEST FOR REGISTRATION

[fol. 13a]

Applicant shall read to the Registrar of Voters and give a reasonable interpretation of the following clauses of the Constitution:

No ex-post facto law, nor any law impairing the obligation of contracts, shall be passed; (Art. 4 Sec. 15 La. Const.)

Nor shall any vested rights be divested, unless for purpose of public utility, and for just and adequate compensation previously paid (Art. 4, Sec. 15, La. Const.)

No function shall ever be attached to any court of record, or to the judges thereof except such as are judicial (Art. 7 Sec. 3 La. Const.)

(The above qualification test and a registration application form provided for by Section 1 (c), Article VIII of the Louisiana Constitution, (Form LR-1), were received by me from the ________________ Parish Registrar of Voters upon my request to register, and I have signed both for acknowledgement and identification with my application to register.)

____
Applicant for Registration

Ward Precinct Address________________________________

(Over)

Form No. 5

CONSTITUTIONAL TEST FOR REGISTRATION

Applicant shall read to the Registrar of Voters and give a reasonable interpretation of the following clauses of the Constitution:

The Legislature shall provide by law for change of venue in civil and criminal cases
(Art. 7 Sec. 45 La. Const.)

The exercise of the police power of the State shall never be abridged
(Art. 19 Sec. 18 La. Const.)

Prescription shall not run against the State in any civil matter
(Art. 19 Sec. 16 La. Const.)

(The above qualification test and a registration application form provided for by Section 1 (c), Article VIII of the Louisiana Constitution, (Form LR-1), were received by me from the ____________ Parish Registrar of Voters upon my request to register, and I have signed both for acknowledgement and identification with my application to register.)

____
Applicant for Registration

Ward ____ Precinct ______ Address ______________________________

(Over)

Form No. 6

CONSTITUTIONAL TEST FOR REGISTRATION

Applicant shall read to the Registrar of Voters and give a reasonable interpretation of the following clauses of the Constitution:

The Legislature shall provide for the registration of voters throughout the State
(Art. 8 Sec. 17 La. Const.)

No power of suspending laws of this State shall be exercised unless by the Legislature, or by its authority (Art. 19 Sec. 5 La. Const.)

Perpetual franchises or privileges shall not be granted to any person or corporation by the State or by any political subdivision thereof (Art. 13 Sec. 7 La. Const.)

(The above qualification test and a registration application form provided for by Section 1 (c), Article

(Art. 7 Sec. 45 La. Const.)

The exercise of the police power of the State shall never be abridged
(Art. 19 Sec. 18 La. Const.)

Prescription shall not run against the State in any civil matter
(Art. 19 Sec. 16 La. Const.)

(The above qualification test and a registration application form provided for by Section 1 (c), Article VIII of the Louisiana Constitution, (Form LR-1), were received by me from the ________________ Parish Registrar of Voters upon my request to register, and I have signed both for acknowledgement and identification with my application to register.)

____
Applicant for Registration

Ward _____ Precinct _______ Address ____

(Over)

Form No. 6

CONSTITUTIONAL TEST FOR REGISTRATION

[fol. 13b]

Applicant shall read to the Registrar of Voters and give a reasonable interpretation of the following clauses of the Constitution:

The Legislature shall provide for the registration of voters throughout the State
(Art. 8 Sec. 17 La. Const.)

No power of suspending laws of this State shall be exercised unless by the Legislature, or by its authority (Art. 19 Sec. 5 La. Const.)

Perpetual franchises or privileges shall not be granted to any person or corporation by the State or by any political subdivision thereof (Art. 13 Sec. 7 La. Const.)

(The above qualification test and a registration application form provided for by Section 1 (c), Article VIII of the Louisiana Constitution, (Form LR-1), were received by me from the ________________ Parish Registrar of Voters upon my request to register, and I have signed both for acknowledgement and identification with my application to register.)

____
Applicant for Registration

Ward _______ Precinct _______ Address ____

(Over)

Form No. 7

CONSTITUTIONAL TEST FOR REGISTRATION

Applicant shall read to the Registrar of Voters and give a reasonable interpretation of the following clauses of the Constitution:

The United States shall guarantee to every state in this Union a republican form of government, (U. S. Const. Art. IV Sec. 4)

Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof, (U. S. Const. 1st. Amendment)

The right of the people to be secure in their persons, houses, papers and effects against unreasonable searches and seizures, shall not be violated (Art. 1 Sec. 7 La. Const.)

(The above qualification test and a registration application form provided for by Section 1 (c), Article VIII of the Louisiana Constitution, (Form LR-1), were received by me from the____________Parish Registrar of Voters upon my request to register, and I have signed both for acknowledgement and identification with my application to register.)

____
Applicant for Registration

Ward_____ Precinct_____ Address ____________________

(Over)

Form No. 8

CONSTITUTIONAL TEST FOR REGISTRATION

Applicant shall read to the Registrar of Voters and give a reasonable interpretation of the following clauses of the Constitution:

The powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively, or to the people (U. S. Const. 10th Amendment)

No law shall be passed to curtail or restrain the liberty of speech or of the press. (Art. 1 No. 3 La. Const.)

Every person has the natural right to worship God according to the dictates of his own conscience (Art. 1 No. 4 La. Const.)

(The above qualification test and a registration application form provided for by Section 1 (c), Article

[fol. 13c]

Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof, (U. S. Const. 1st. Amendment)

The right of the people to be secure in their persons, houses, papers and effects against unreasonable searches and seizures, shall not be violated (Art. 1 Sec. 7 La. Const.)

(The above qualification test and a registration application form provided for by Section 1 (c), Article VIII of the Louisiana Constitution, (Form LR-1), were received by me from the__________Parish Registrar of Voters upon my request to register, and I have signed both for acknowledgement and identification with my application to register.)

____
Applicant for Registration

Ward____ Precinct____ Address____________________

(Over)

Form No. 8

CONSTITUTIONAL TEST FOR REGISTRATION

[fol. 13c]

Applicant shall read to the Registrar of Voters and give a reasonable interpretation of the following clauses of the Constitution:

The powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively, or to the people (U. S. Const. 10th Amendment)

No law shall be passed to curtail or restrain the liberty of speech or of the press. (Art. 1 No. 3 La. Const.)

Every person has the natural right to worship God according to the dictates of his own conscience (Art. 1 No. 4 La. Const.)

(The above qualification test and a registration application form provided for by Section 1 (c), Article VIII of the Louisiana Constitution, (Form LR-1), were received by me from the__________Parish Registrar of Voters upon my request to register, and I have signed both for acknowledgement and identification with my application to register.)

____
Applicant for Registration

Ward____ Precinct____ Address____________________

(Over)

Form No. 9

CONSTITUTIONAL TEST FOR REGISTRATION

Applicant shall read to the Registrar of Voters and give a reasonable interpretation of the following clauses of the Constitution:

Any person may speak, write and publish his sentiments on all subjects, being responsible for the abuse of that liberty (Art. 1, Sec. 3, La. Const.)

No person shall be compelled to give evidence against himself in a criminal case, (Art. 1 Sec. 11 La. Const.)

No ex-post facto law, nor any law impairing the obligation of contracts, shall be passed; (Art. 4 Sec. 15 La. Const.)

(The above qualification test and a registration application form provided for by Section 1 (c), Article VIII of the Louisiana Constitution, (Form LR-1), were received by me from the __________ Parish Registrar of Voters upon my request to register, and I have signed both for acknowledgement and identification with my application to register.)

____
Applicant for Registration

Ward Precinct Address ____________________

(Over)

[fol. 13d]

Form No. 10

CONSTITUTIONAL TEST FOR REGISTRATION

Applicant shall read to the Registrar of Voters and give a reasonable interpretation of the following clauses of the Constitution:

The military shall be in subordination to the civil power (Art. 1 Sec. 4 La. Const.)

Nor shall any vested rights be divested, unless for purpose of public utility, and for just and adequate compensation previously paid (Art. 4, Sec. 15, La. Const.)

The Legislature shall provide by law for change of venue in civil and criminal cases (Art. 7 Sec. 45 La. Const.)

(The above qualification test and a registration application form provided for by Section 1 (c), Article VIII of the Louisiana Constitution, (Form LR-1), were received by me from the __________ Parish Reg-

No person shall be compelled to give evidence against himself in a criminal case, (Art. 1 Sec. 11 La. Const.)

No ex-post facto law, nor any law impairing the obligation of contracts, shall be passed: (Art. 4 Sec. 15 La. Const.)

(The above qualification test and a registration application form provided for by Section 1 (c), Article VIII of the Louisiana Constitution, (Form LR-1), were received by me from the_______________Parish Registrar of Voters upon my request to register, and I have signed both for acknowledgement and identification with my application to register.)

____
Applicant for Registration

Ward Precinct Address____________________

(Over)

Form No. 10

[fol. 13d]

CONSTITUTIONAL TEST FOR REGISTRATION

Applicant shall read to the Registrar of Voters and give a reasonable interpretation of the following clauses of the Constitution:

The military shall be in subordination to the civil power (Art. 1 Sec. 4 La. Const.)

Nor shall any vested rights be divested, unless for purpose of public utility, and for just and adequate compensation previously paid (Art. 4, Sec. 15, La. Const.)

The Legislature shall provide by law for change of venue in civil and criminal cases (Art. 7 Sec. 45 La. Const.)

(The above qualification test and a registration application form provided for by Section 1 (c), Article VIII of the Louisiana Constitution, (Form LR-1), were received by me from the_______________Parish Registrar of Voters upon my request to register, and I have signed both for acknowledgement and identification with my application to register.)

____
Applicant for Registration

Ward Precinct______ Address____________________

(Over)

Form No. 11

CONSTITUTIONAL TEST FOR REGISTRATION

Applicant shall read to the Registrar of Voters and give a reasonable interpretation of the following clauses of the Constitution:

No function shall ever be attached to any court of record, or to the judges thereof except such as are judicial (Art. 7 Sec. 3 La. Const.)

The Legislature shall provide for the registration of voters throughout the State (Art. 8 Sec. 17 La. Const.)

The exercise of the police power of the State shall never be abridged (Art. 19 Sec. 18 La. Const.)

(The above qualification test and a registration application form provided for by Section 1 (c), Article VIII of the Louisiana Constitution, (Form LR-1), were received by me from the ________________ Parish Registrar of Voters upon my request to register, and I have signed both for acknowledgment and identification with my application to register.)

____________________ ____________________________________
Applicant for Registration

Ward Precinct Address ____

(Over)

Form No. 12

CONSTITUTIONAL TEST FOR REGISTRATION

Applicant shall read to the Registrar of Voters and give a reasonable interpretation of the following clauses of the Constitution:

Prescription shall not run against the State in any civil matter (Art. 19 Sec. 16 La. Const.)

No power of suspending laws of this State shall be exercised unless by the Legislature, or by its authority (Art. 19 Sec. 5 La. Const.)

Full faith and credit shall be given in each state to the public acts, records, and judicial proceedings of every other state, (Art. IV Sec. 1, U. S. Const.)

qualification test and a registration application form provided for by Section 1 (c), Article

The Legislature shall provide for the registration of voters throughout the State (Art. 8 Sec. 17 La. Const.)

The exercise of the police power of the State shall never be abridged (Art. 19 Sec. 18 La. Const.)

(The above qualification test and a registration application form provided for by Section 1 (c), Article VIII of the Louisiana Constitution, (Form LR-1), were received by me from the ____________ Parish Registrar of Voters upon my request to register, and I have signed both for acknowledgement and identification with my application to register.)

____
Applicant for Registration

Ward Precinct Address ____________________

(Over)

Form No. 12

CONSTITUTIONAL TEST FOR REGISTRATION

Applicant shall read to the Registrar of Voters and give a reasonable interpretation of the following clauses of the Constitution:

Prescription shall not run against the State in any civil matter (Art. 19 Sec. 16 La. Const.)

No power of suspending laws of this State shall be exercised unless by the Legislature, or by its authority (Art. 19 Sec. 5 La. Const.)

Full faith and credit shall be given in each state to the public acts, records, and judicial proceedings of every other state, (Art. IV Sec. 1, U. S. Const.)

(The above qualification test and a registration application form provided for by Section 1 (c), Article VIII of the Louisiana Constitution, (Form LR-1), were received by me from the ____________ Parish Registrar of Voters upon my request to register, and I have signed both for acknowledgement and identification with my application to register.)

____
Applicant for Registration

Ward Precinct ____ Address ____________________

(Over)

Form No. 13

CONSTITUTIONAL TEST FOR REGISTRATION

Applicant shall read to the Registrar of Voters and give a reasonable interpretation of the following clauses of the Constitution:

The citizens of each state shall be entitled to all privileges and immunities of citizens in the several states, (U. S. Const. Art. IV Sec. 2)

The right of the people to keep and bear arms, shall not be infringed (U. S. Const. 2nd. Amendment)

The right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated (U. S. Const. 4th Amendment)

(The above qualification test and a registration application form provided for by Section 1 (c), Article VIII of the Louisiana Constitution, (Form LR-1), were received by me from the __________ Parish Registrar of Voters upon my request to register, and I have signed both for acknowledgement and identification with my application to register.)

____
Applicant for Registration

Ward____ Precinct ____ Address ____________________

(Over)

Form No. 14

CONSTITUTIONAL TEST FOR REGISTRATION

Applicant shall read to the Registrar of Voters and give a reasonable interpretation of the following clauses of the Constitution:

The people have the right peaceably to assemble (Art. 1 Sec. 5 La. Const.)

No person shall be compelled to give evidence against himself in a criminal case, (Art. 1 Sec. 11 La. Const.)

Nor shall any vested rights be divested, unless for purpose of public utility, and for just and adequate compensation previously paid (Art. 4, Sec. 15, La. Const.)

(The above qualification test and a registration application form provided for by Section 1 (c), Article

in the several states, (U. S. Const. Art. IV Sec. 2)

The right of the people to keep and bear arms, shall not be infringed (U. S. Const. 2nd. Amendment)

The right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated (U. S. Const. 4th Amendment)

(The above qualification test and a registration application form provided for by Section 1 (c), Article VIII of the Louisiana Constitution, (Form LR-1), were received by me from the __________ Parish Registrar of Voters upon my request to register, and I have signed both for acknowledgement and identification with my application to register.)

____

Applicant for Registration

Ward ____ Precinct ____ Address ____________________

(Over)

Form No. 14

[fol. 13f]

CONSTITUTIONAL TEST FOR REGISTRATION

Applicant shall read to the Registrar of Voters and give a reasonable interpretation of the following clauses of the Constitution:

The people have the right peaceably to assemble (Art. 1 Sec. 5 La. Const.)

No person shall be compelled to give evidence against himself in a criminal case, (Art. 1 Sec. 11 La. Const.)

Nor shall any vested rights be divested, unless for purpose of public utility, and for just and adequate compensation previously paid (Art. 4, Sec. 15, La. Const.)

(The above qualification test and a registration application form provided for by Section 1 (c), Article VIII of the Louisiana Constitution, (Form LR-1), were received by me from the __________ Parish Registrar of Voters upon my request to register, and I have signed both for acknowledgement and identification with my application to register.)

____

Applicant for Registration

Ward ____ Precinct ____ Address ____________________

(Over)

Form No. 15

CONSTITUTIONAL TEST FOR REGISTRATION

Applicant shall read to the Registrar of Voters and give a reasonable interpretation of the following clauses of the Constitution:

All legislative powers herein granted shall be vested in a Congress of the United States, (U. S. Const. Art, 1 No. 1)

The judicial power of the United Stataes, shall be vested in one Supreme Court, and in such inferior Courts as the congress may from time to time ordain and establish

(U. S. Const. Art. III Sec. 1)

The people have the right peaceably to assemble (Art. 1 Sec. 5 La. Const.)

(The above qualification test and a registration application form provided for by Section 1 (c), Article VIII of the Louisiana Constitution, (Form LR-1), were received by me from the __________Parish Registrar of Voters upon my request to register, and I have signed both for acknowledgement and identification with my application to register.)

____
Applicant for Registration

Ward ___ Precinct ___ Address ________________________

(Over)

Form No. 16

CONSTITUTIONAL TEST FOR REGISTRATION

Applicant shall read to the Registrar of Voters and give a reasonable interpretation of the following clauses of the Constitution:

Full faith and credit shall be given in each state to the public acts, records, and judicial proceedings of every other state. (Art. IV Sec 1. U. S. Const.)

The citizens of each state shall be entitled to all privileges and immunities of citizens in the several states. (U. S. Const. Art. IV Sec. 2)

Nor shall any state deprive any person of life, liberty, or property, without due process of law (U. S. Const. 14th Amendment)

(The above qualification test and a registration application form provided for by Section 1 (c), Article VIII of the Louisiana Constitution, (Form LR-1), were received by me from the Parish Reg-

States, (U. S. Const. Art. I No. 1)

The judicial power of the United Stataes, shall be vested in one Supreme Court; and in such inferior Courts as the congress may from time to time ordain and establish

(U. S. Const. Art. III Sec. 1).
The people have the right peaceably to assemble (Art. 1 Sec. 5 La. Const.)

(The above qualification test and a registration application form provided for by Section 1 (c), Article VIII of the Louisiana Constitution, (Form LR-1), were received by me from the ________ Parish Registrar of Voters upon my request to register, and I have signed both for acknowledgement and identification with my application to register.)

____
Applicant for Registration

Ward ____ Precinct ____ Address ________________________

(Over)

Form No. 16

CONSTITUTIONAL TEST FOR REGISTRATION

[fol. 13g]

Applicant shall read to the Registrar of Voters and give a reasonable interpretation of the following clauses of the Constitution:

Full faith and credit shall be given in each state to the public acts, records, and judicial proceedings of every other state. (Art. IV Sec 1, U. S. Const.)

The citizens of each state shall be entitled to all privileges and immunities of citizens in the several states. (U. S. Const. Art. IV Sec. 2)

Nor shall any state deprive any person of life, liberty, or property, without due process of law (U. S. Const. 14th Amendment)

(The above qualification test and a registration application form provided for by Section 1 (c), Article VIII of the Louisiana Constitution, (Form LR-1), were received by me from the ________ Parish Registrar of Voters upon my request to register, and I have signed both for acknowledgement and identification with my application to register.)

____
Applicant for Registration

Ward ____ Precinct ____ Address ________________________

(Over)

Form No. 17

CONSTITUTIONAL TEST FOR REGISTRATION

Applicant shall read to the Registrar of Voters and give a reasonable interpretation of the following clauses of the Constitution:

Every person has the natural right to worship God according to the dictates of his own conscience (Art. 1 No. 4 La. Const.)

No function shall ever be attached to any court of record, or to the judges thereof except such as are judicial (Art. 7 Sec. 3 La. Const.)

Perpetual franchises or privileges shall not be granted to any person or corporation by the State or by any political subdivision thereof (Art. 13 Sec. 7 La. Const.)

(The above qualification test and a registration application form provided for by Section 1 (c), Article VIII of the Louisiana Constitution, (Form LR-1), were received by me from the ______________ Parish Registrar of Voters upon my request to register, and I have signed both for acknowledgement and identification with my application to register.)

____
Applicant for Registration

Ward Precinct Address ______________________________

(Over)

Form No. 18

CONSTITUTIONAL TEST FOR REGISTRATION

Applicant shall read to the Registrar of Voters and give a reasonable interpretation of the following clauses of the Constitution:

The United States shall guarantee to every state in this Union a republican form of government, (U. S. Const. Art. IV Sec. 4)

Any person may speak, write and publish his sentiments on all subjects, being responsible for the abuse of that liberty (Art. 1, Sec. 3, La. Const.)

The right of the people to be secure in their persons, houses, papers and effects against unreasonable searches and seizures, shall not be violated (Art. 1 Sec. 7 La. Const.)

(The above qualification test and a registration application form provided for by Section 1 (e), Article VIII of the Louisiana Constitution, (Form LR-1), were received by me from the ______________ Parish Reg-

[fol. 13h]

own conscience (Art. 1 No. 4 La. Const.)

No function shall ever be attached to any court of record, or to the judges thereof except such as are judicial (Art. 7 Sec. 3 La. Const.)

Perpetual franchises or privileges shall not be granted to any person or corporation by the State or by any political subdivision thereof (Art. 13 Sec. 7 La. Const.)

(The above qualification test and a registration application form provided for by Section 1 (c), Article VIII of the Louisiana Constitution, (Form LR-1), were received by me from the ______________ Parish Registrar of Voters upon my request to register, and I have signed both for acknowledgement and identification with my application to register.)

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____
Applicant for Registration

Ward Precinct ________ Address ______________________________

(Over)

Form No. 19

CONSTITUTIONAL TEST FOR REGISTRATION

Applicant shall read to the Registrar of Voters and give a reasonable interpretation of the following clauses of the Constitution:

The right of the people to keep and bear arms, shall not be infringed (U. S. Const. 2nd Amendment)

No law shall be passed to curtail or restrain the liberty of speech or of the press, (Art. 1 No. 3 La. Const.)

The people have the right peaceably to assemble (Art. 1 Sec. 5 La. Const.)

(The above qualification test and a registration application form provided for by Section 1 (c), Article VIII of the Louisiana Constitution, (Form LR-1), were received by me from the ____________ Parish Registrar of Voters upon my request to register, and I have signed both for acknowledgement and identification with my application to register.)

____
Applicant for Registration

Ward Precinct Address ________________________

(Over)

Form No. 20

CONSTITUTIONAL TEST FOR REGISTRATION

Applicant shall read to the Registrar of Voters and give a reasonable interpretation of the following clauses of the Constitution:

Full faith and credit shall be given in each state to the public acts, records, and judicial proceedings of every other state. (Art. IV Sec. 1. U. S. Const.)

Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof. (U. S. Const. 1st. Amendment)

The right of the people to be secure in their persons, houses, papers and effects, against unreasonable searchers and seizures, shall not be violated (U. S. Const. 4th Amendment)

The above qualification test and a registration application form provided for by Section 1 (c), Article VIII of the Louisiana Constitution, (Form LR-1), were received by me from the Parish Reg-

to keep and bear arms, shall not be infringed
(U. S. Const. 2nd Amendment)

No law shall be passed to curtail or restrain the liberty of speech or of the press, (Art. 1 No. 3 La. Const.)

The people have the right peaceably to assemble (Art. 1 Sec. 5 La. Const.)

(The above qualification test and a registration application form provided for by Section 1 (c), Article VIII of the Louisiana Constitution, (Form LR-1), were received by me from the ____________ Parish Registrar of Voters upon my request to register, and I have signed both for acknowledgement and identification with my application to register.)

____
Applicant for Registration

Ward Precinct Address ____________________

(Over)

Form No. 20

CONSTITUTIONAL TEST FOR REGISTRATION

Applicant shall read to the Registrar of Voters and give a reasonable interpretation of the following clauses of the Constitution:

Full faith and credit shall be given in each state to the public acts, records, and judicial proceedings of every other state. (Art. IV Sec. 1. U. S. Const.)

Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof, (U. S. Const. 1st. Amendment)

The right of the people to be secure in their persons, houses, papers and effects, against unreasonable searchers and seizures, shall not be violated (U. S. Const. 4th Amendment)

(The above qualification test and a registration application form provided for by Section 1 (c), Article VIII of the Louisiana Constitution, (Form LR-1), were received by me from the ____________ Parish Registrar of Voters upon my request to register, and I have signed both for acknowledgement and identification with my application to register.)

____
Applicant for Registration

Ward Precinct Address ____________________

(Over)

Form No. 21

CONSTITUTIONAL TEST FOR REGISTRATION

Applicant shall read to the Registrar of Voters and give a reasonable interpretation of the following clauses of the Constitution:

The powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively, or to the people (U. S. Const. 10th Amendment)

The citizens of each state shall be entitled to all privileges and immunities of citizens in the several states, (U. S. Const. Art. IV Sec. 2)

The right of the people to keep and bear arms, shall not be infringed (U. S. Const. 2nd. Amendment)

(The above qualification test and a registration application form provided for by Section 1 (c), Article VIII of the Louisiana Constitution, (Form LR-1), were received by me from the ______ Parish Registrar of Voters upon my request to register, and I have signed both for acknowledgement and identification with my application to register.)

____
Applicant for Registration

Ward______ Precinct Address ______________________

(Over)

Form No. 22

CONSTITUTIONAL TEST FOR REGISTRATION

Applicant shall read to the Registrar of Voters and give a reasonable interpretation of the following clauses of the Constitution:

Nor shall any state deprive any person of life, liberty, or property, without due process of law (U. S. Const. 14th Amendment)

The judicial power of the United States, shall be vested in one Supreme Court, and in such inferior Courts as the congress may from time ordain and establish (U. S. Const. Art. III Sec. 1)

The military shall be in subordination to the civil power (Art. 1 Sec. 4 La. Const.)

(The above qualification test and a registration application form provided for by Section 1 (c), Article

The citizens of each state shall be entitled to all privileges and immunities of citizens in the several states, (U. S. Const. Art. IV Sec. 2)

The right of the people to keep and bear arms, shall not be infringed (U. S. Const. 2nd. Amendment)

(The above qualification test and a registration application form provided for by Section 1 (c), Article VIII of the Louisiana Constitution, (Form LR-1), were received by me from the ________________ Parish Registrar of Voters upon my request to register, and I have signed both for acknowledgement and identification with my application to register.)

____
Applicant for Registration

Ward ______ **Precinct** Address ______________________________

(Over)

Form No. 22

CONSTITUTIONAL TEST FOR REGISTRATION

Applicant shall read to the Registrar of Voters and give a reasonable interpretation of the following clauses of the Constitution:

Nor shall any state deprive any person of life, liberty, or property, without due process of law (U. S. Const. 14th Amendment)

The judicial power of the United States, shall be vested in one Supreme Court, and in such inferior Courts as the congress may from time ordain and establish (U. S. Const. Art. III Sec. 1)

The military shall be in subordination to the civil power (Art. 1 Sec. 4 La. Const.)

(The above qualification test and a registration application form provided for by Section 1 (c), Article VIII of the Louisiana Constitution, (Form LR-1), were received by me from the ________________ Parish Registrar of Voters upon my request to register, and I have signed both for acknowledgement and identification with my application to register.)

____
Applicant for Registration

Ward ______ **Precinct** ______ **Address** ______________________________

(Over)

Form No. 23

CONSTITUTIONAL TEST FOR REGISTRATION

Applicant shall read to the Registrar of Voters and give a reasonable interpretation of the following clauses of the Constitution:

No person shall be deprived of life, liberty or property, except by due process of law. (Art. 1, Sec. 2 La. Const.)

The Legislature shall provide by law for change of venue in civil and criminal cases. (Art. 7 Sec. 45 La. Const.)

No ex-post facto law, nor any law impairing the obligation of contracts, shall be passed; (Art. 4 Sec. 15 La. Const.)

(The above qualification test and a registration application form provided for by Section 1 (c), Article VIII of the Louisiana Constitution, (Form LR-1), were received by me from the __________ Parish Registrar of Voters upon my request to register, and I have signed both for acknowledgement and identification with my application to register.)

____

Applicant for Registration

Ward _____ Precinct _____ Address ____________________

(Over)

Form No. 24

CONSTITUTIONAL TEST FOR REGISTRATION

[fol. 13k]

Applicant shall read to the Registrar of Voters and give a reasonable interpretation of the following clauses of the Constitution:

No person shall be deprived of life, liberty or property, except by due process of law. (Art. 1, Sec. 2 La. Const.)

The right of the people to be secure in their persons, houses, papers and effects against unreasonable searchers and seizures, shall not be violated (Art. 1 Sec. 7 La. Const.)

No person shall be compelled to give evidence against himself in a criminal case. (Art. 1 Sec. 11 La. Const.)

(The above qualification test and a registration application form provided for by Section 1 (c), Article

The Legislature shall provide by law for change of venue in civil and criminal cases (Art. 7 Sec. 45 La. Const.)

No ex-post facto law, nor any law impairing the obligation of contracts, shall be passed; (Art. 4 Sec. 15 La. Const.)

(The above qualification test and a registration application form provided for by Section 1 (c), Article VIII of the Louisiana Constitution, (Form LR-1), were received by me from the ________ Parish Registrar of Voters upon my request to register, and I have signed both for acknowledgement and identification with my application to register.)

____
Applicant for Registration

Ward ____ Precinct ____ Address ________________________

(Over)

Form No. 24

CONSTITUTIONAL TEST FOR REGISTRATION

[fol. 13k]

Applicant shall read to the Registrar of Voters and give a reasonable interpretation of the following clauses of the Constitution:

No person shall be deprived of life, liberty or property, except by due process of law. (Art. 1, Sec. 2 La. Const.)

The right of the people to be secure in their persons, houses, papers and effects against unreasonable searchers and seizures, shall not be violated (Art. 1 Sec. 7 La. Const.)

No person shall be compelled to give evidence against himself in a criminal case. (Art. 1 Sec. 11 La. Const.)

(The above qualification test and a registration application form provided for by Section 1 (c), Article VIII of the Louisiana Constitution, (Form LR-1), were received by me from the ________ Parish Registrar of Voters upon my request to register, and I have signed both for acknowledgement and identification with my application to register.)

____
Applicant for Registration

Ward ____ Precinct ____ Address ________________________

(Over)

[fol. 14] **Clerk's Note: Appendix "C" to Complaint, Letter from State of Louisiana, Joint Legislative Committee to Mrs. Myrtle C. Beard, Lake Providence, Louisiana (Registrar of Voters of East Carroll Parish), dated May 26, 1958 is omitted from the record here. It appears as Plaintiff's Exhibit No. 13 on page 201.**

[fol. 15] [File endorsement omitted]

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF LOUISIANA

BATON ROUGE DIVISION

Civil Action No. 2548

Division "C"

[Title omitted]

MOTION TO DISMISS—Filed February 27, 1962

On Motion of State of Louisiana; Jimmie H. Davis, C. C. Aycock, J. Thomas Jewell, as members of the Board of Registration of the State of Louisiana; and Hugh E. Cutrer, Jr., Director and Ex Officio Secretary of the Board of Registration of the State of Louisiana, sought to be made defendants in the above entitled and numbered cause, through their undersigned counsel, and in no way acceding to the jurisdiction of this Honorable Court, but on the contrary denying the same, moves as follows, to-wit:

1.

To dismiss the action herein because the complaint fails to state a claim against defendants, upon which relief can be granted in that

[fol. 16]

(a) There is no justiciable controversy alleged in the pleadings of the plaintiff; and

(b) There is a lack of indispensable parties under the allegations of the complaint; and

(c) That this action has been brought in a court of improper venue.

Jack P. F. Gremillion, Attorney General, State of Louisiana; M. E. Culligan, Assistant Attorney General; John E. Jackson, Assistant Attorney General; Dorothy Wolbrette, Assistant Attorney General; Weldon A. Cousins, Assistant Attorney General; William P. Schuler, Assistant Attorney General; Henry J. Roberts, Jr., Assistant Attorney General; Harry J. Kron, Jr., Assistant Attorney General.

[fol. 17] [File endorsement omitted]

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF LOUISIANA

BATON ROUGE DIVISION

Civil Action No. 2548

[Title omitted]

AMENDED COMPLAINT—Filed March 15, 1962

The United States of America alleges that:

1. This action is instituted by the Attorney General of the United States pursuant to the provisions of 42 U.S.C. 1971, as amended, and pursuant to 28 U.S.C. 2201.

2. This Court has jurisdiction of this action under 42 U.S.C. 1971(d), 28 U.S.C. 1345 and 28 U.S.C. 2281.

[fol. 18] 3. Jimmie H. Davis, C. C. Aycock and J. Thomas Jewel are members of the Board of Registration of the State of Louisiana by virtue of their official positions as Governor, Lieutenant Governor and Speaker of the House of Representatives of the State of Louisiana, respectively. Each of these defendants has an office in Baton Rouge, Louisiana. The Board of Registration is an agency of the defendant State of Louisiana. The office of the Board is in Baton Rouge, Louisiana.

4. Hugh E. Cutrer, Jr., is the Director and Ex Officio Secretary of the Board of Registration and in that capacity is an agent of the defendant State. His office is in Baton Rouge, Louisiana.

5. Under the Constitution and laws of Louisiana, the Board of Registration is required to prescribe by general rules and regulations the method of the administration of the voter registration laws and procedures and the character and forms of records and documents used in the registration process. The Board is authorized to remove, at will, any registrar of voters in the State of Louisiana. It is the duty of the defendant Director, Hugh E. Cutrer, Jr., who was appointed by the Board, to administer the rules and regulations of the Board, and to perform such other duties as may be directed by the Board in connection with the powers of the Board and the promotion of registration of the voters of the State.

6. The right to vote is essential to a republican form of government. It is secured by Sections 2 and 4 of Article I of the Constitution of the United States and by the Fourteenth, Fifteenth, and Seventeenth Amendments thereto.

[fol. 19] 7. Under Louisiana law, registration is, and has been since at least 1898, a prerequisite to voting in any election. In 42 of the 64 parishes registration is permanent.

8. Each parish in Louisiana has a registrar of voters who is an appointed official and an agent of the defendant State. All registrars of voters in the State of Louisiana since at least 1898 have been white citizens. Under Louisiana law registrars of voters determine whether each applicant for registration is qualified to vote.

9. Prior to the adoption of the Louisiana Constitution of 1898 approximately 44 percent of the registered voters in Louisiana were Negroes. The Constitution of 1898 established literacy and property requirements as conditions prerequisite to voting but exempted from these requirements all persons who were entitled to vote on or before January 1, 1867, and their sons and grandsons. This

exemption is hereafter referred to as the "grandfather clause."

10. Under the operation of the "grandfather clause" white political supremacy became a fact in Louisiana. In 1910 only six-tenths of one percent of the registered voters in Louisiana were Negroes.

11. The Louisiana Constitution of 1921 replaced the "grandfather clause" with an interpretation test, a similar "grandfather clause" having been invalidated under the Fifteenth Amendment by the United States Supreme Court in 1915. Article VIII, Section I of the Louisiana Constitution of 1921 provided that a citizen in Louisiana, otherwise qualified, could register to vote if he were able [fol. 20] to read any clause in the Louisiana Constitution or the Constitution of the United States and give a reasonable interpretation thereof. A citizen unable to read and write could qualify if he were able to understand and give a reasonable interpretation of any section of either Constitution when read to him by the registrar of voters. The purpose of adopting this interpretation test was to provide a means by which the disfranchisement of Negroes could be perpetuated. This test was adopted in a state where the public educational facilities were and are racially segregated.

12. From 1921, when the interpretation test was adopted until 1944, the percentage of registered voters in Louisiana who were Negroes never exceeded one-half of one percent. In 1944 the United States Supreme Court invalidated the practice of excluding Negroes from participation in primary elections. Prior to that time, Negroes were not permitted to vote in Democratic primary elections in Louisiana.

13. During the period from 1944 until March 1956, the percentage of registered voters in Louisiana who were Negroes rose from two-tenths of one percent to approximately fifteen percent. Many registrars of voters in Louisiana did not apply the interpretation test during this period.

14. In 1954, following the decision of the Supreme Court declaring unconstitutional the maintenance by states of

racially segregated public schools, the Legislature of Louisiana created a Joint Legislative Committee to study means by which white supremacy and racial segregation [fol. 21] could be preserved in Louisiana. This Committee is hereafter referred to as the Committee on Segregation.

15. The Chairman of the Committee on Segregation, William M. Rainach, was a State Senator from a District, the 27th, which has a large population of Negroes, virtually none of whom are registered to vote. While he was Chairman of the Committee on Segregation, William M. Rainach helped to organize the Association of Citizens Councils of Louisiana, which was incorporated in January 1956, and became president and a member of the Board of Directors of the Association.

16. The purpose of the Association of Citizens Councils of Louisiana was to maintain white political supremacy and racial segregation in Louisiana and to organize local citizens' councils and coordinate their activities to promote these ends. Many such councils were organized in Louisiana.

17. To promote the objectives referred to in the preceding paragraph, the local all-white citizens' councils in at least eleven Louisiana parishes, purporting to act under a procedure authorized by Louisiana law, challenged the registration status and caused the removal from the voter registration rolls of thousands of Negro voters, but virtually no white voters. In these eleven parishes, the total number of white voters increased by 1033, while the total number of Negro voters decreased by 8,158 between March and October 1956.

18. In promoting the purging of Negro voters as described in the preceding paragraph, the Association of Citizens Councils prepared and distributed literature to local citizens' councils, registrars of voters and other public [fol. 22] officials in Louisiana. This literature included a pamphlet entitled "Voter Qualification Laws in Louisiana —the Key to Victory in the Segregation Struggle" urging, among other things, a strict application of the interpretation test as a means of preserving white political supremacy

and racial segregation in Louisiana. A copy of this pamphlet is attached hereto as Appendix A and is incorporated herein.

19. During 1958 and 1959 the Committee on Segregation and the Board of Registration held joint meetings for each of the eight congressional districts of Louisiana. These meetings were attended by public officials or their representatives, including the Committee on Segregation, the Board of Registration, the State Attorney General, registrars of voters, district attorneys, sheriffs, and police jury presidents, as well as by officers and members of the citizens' councils, all of whom were white citizens. The purpose of these meetings was to formulate a program for maintaining white political supremacy and racial segregation in Louisiana. The position taken by these state agencies was that the strict application of the interpretation test was the key to maintaining white political supremacy and racial segregation. The counsel for the Committee on Segregation told those in attendance that the interpretation test is a test of native intelligence, not "book learning", and that, "experience teaches—that most of our white people have this native intelligence, while most Negroes do not." These state agencies distributed to the persons in attendance at these meetings, including the registrars of [fol. 23] voters, the pamphlet described in the preceding paragraph, and sets of 24 cards containing constitutional provisions to be used in administering the interpretation test. A copy of a set of these test cards is attached as Appendix B and is incorporated herein.

20. The Committee on Segregation also sent letters and other materials to the registrars of voters throughout Louisiana urging the registrars to enforce strictly the interpretation test in order to maintain segregation of the races, stressing that the registrars of voters are on the very front line of the battle to maintain segregation. A copy of one such letter from this Committee to a registrar of voters is attached as Appendix C and is incorporated herein.

21. In late 1956 in certain Louisiana parishes, particularly those in which most of the Negro voters were purged

from the registration rolls, the registrars of voters began to require applicants for registration and re-registration to pass the interpretation test. In these parishes, white voters who, with almost no exceptions, had not been purged, were not subjected to the interpretation test. In the eleven parishes referred to in paragraph 17, from October 1956 until December 1960, the number of white voters in these parishes increased by 3264, while the number of Negro voters decreased by 2205.

22. In some of the parishes of Louisiana, including the four largest, the interpretation test has not been applied as a qualification for voter registration. The interpretation test has been applied in at least twelve parishes. Negro citizens in these parishes have been denied registration to vote on the ground that they did not interpret constitu- [fol. 24] tional sections to the satisfaction of the registrars. In these twelve parishes less than five per cent of the Negroes of voting age were registered to vote as of December 31, 1960. Throughout the rest of the State, over 35 per cent of the Negroes of voting age were registered to vote as of that date.

23. In November, 1960, the voters of Louisiana approved an amendment to Article VIII of the Louisiana Constitution which, among other things, changed the interpretation test to require as a qualification for voting that an applicant for registration be able to *understand* and give a reasonable interpretation of any section of either Constitution. The amendment also requires applicants to read and to write from dictation any portion of the preamble to the Constitution of the United States. The amendment was proposed by the Louisiana Legislature as one of several measures to preserve racial segregation in Louisiana.

24. Pursuant to its authority to prescribe rules and regulations governing the method of administration of the voter registration laws and procedures and to supervise parish registrars of voters, the Board of Registration, in October 1961, in cooperation with the Committee on Segregation and the State Sovereignty Commission, promulgated a resolution requiring all registrars of voters in the State of Louisiana to enforce strictly the interpretation test.

25. The Constitution and laws of Louisiana providing for the interpretation test vest discretion in the registrars of voters to determine the qualifications of applicants for registration. These constitutional and statutory provisions impose no definite and objective standards upon registrars [fol. 25] of voters for the administration of the interpretation test. No requirement exists that answers given to the interpretation test be in writing or that they be reduced to writing. These provisions enable and require the registrars of voters in Louisiana to determine subjectively:

(a) The manner in which the interpretation test is to be administered;

(b) The length and complexity of the sections of the Constitution to be understood and interpreted by applicants;

(c) What constitutes a reasonable interpretation of any section of the Constitution;

(d) Whether the applicant's understanding and interpretation are satisfactory.

26. Louisiana registrars of voters, vested with the discretion described in the preceding paragraph, have used, are using, and will continue to use the interpretation test to deprive otherwise qualified Negro citizens of the right to register to vote without distinction of race or color. The existence of the interpretation test as a voter qualification in Louisiana, the threats of its enforcement and its enforcement have deterred, are deterring and will continue to deter otherwise qualified Negroes in Louisiana from applying for registration to vote.

27. The history of the interpretation test, the setting of white political supremacy and racial segregation in which this test was adopted and is enforced, and the discretion which is vested in the registrars of voters in the administration of this test render the interpretation test invalid on its face under 42 U.S.C. 1971(a) and the Fourteenth [fol. 26] and Fifteenth Amendments to the Constitution of the United States.

28. The Louisiana Constitution is in excess of 500 printed pages. Its provisions vary widely in subject matter and complexity to include such matters as the requirement that the English language be used in public schools (Art. XII, Sec. 12) and the application of certain debt taxes and water and sewer taxes to the liquidation of certain bonded debt obligations incurred by the City of New Orleans for public improvements (Art. XIV, Sec. 24). Interpretations of certain provisions of the Louisiana Constitution and the Constitution of the United States have differed widely even among those learned in the law.

29. There is no rational or reasonable basis for requiring, as a prerequisite to voting, that a prospective elector otherwise qualified be able to interpret certain sections of the Louisiana Constitution.

30. The defendants, unless restrained by order of this Court, will continue to require and permit registrars of voters to use the interpretation test as a qualification for registration for voting.

Wherefore, plaintiff prays that, pursuant to the provisions of 28 U.S.C. 2281, a District Court of three judges be convened in accordance with the procedures set forth in 28 U.S.C. 2284, and that said Court:

1. Adjudge, declare and decree that the provisions of Article VIII, Section 1 of the Louisiana Constitution and the laws of Louisiana, insofar as they pertain to the interpretation test, are invalid and in violation of the Fourteenth and Fifteenth Amendments to the Constitution of the United States;

2. Issue a preliminary and permanent injunction enjoining the defendants, their agents, employees, and successors, [fol. 27] and all persons in active concert and participation with them having actual notice of the Court's decree, from:

(a) Enforcing and giving any further effect to the requirements of Article VIII, Section 1 of the Louisiana Constitution, and of the statutes implementing Article VIII, Section 1, insofar as they pertain to the interpretation test as a prerequisite to voting.

(b) Engaging in any act which would deprive any citizen in the State of Louisiana of the right to register and the right to vote without distinction of race or color.

(c) Engaging in any acts which would delay, prevent, hinder, or discourage Negro citizens, on account of their race or color from applying for registration and becoming registered voters in the State of Louisiana.

3. Order the defendants to direct the Registrars of Voters in Louisiana to cease using the interpretation tests as a voter qualification.

4. Issue all such additional orders which will insure the fair, equal, and non-discriminatory administration of regis- [fol. 28] tration procedures in the State of Louisiana.

5. Grant such additional relief as justice may require, together with the costs and disbursements of this action.

Burke Marshall, Assistant Attorney General; Kathleen Ruddell, United States Attorney; John Doar, Attorney, Department of Justice.

[fol. 29] Certificate of service (omitted in printing).

[fol. 30] Clerk's Note: Appendix "A" to Amended Complaint, pamphlet entitled, "Voter Qualification Laws in Louisiana—The Key To Victory In The Segregation Struggle" is omitted from the record here. It appears as Plaintiff's Exhibit No. 10 on page 195.

[fol. 31] Clerk's Note: Appendix "B" to Amended Complaint, Set of 24 Forms entitled, "Constitutional Test for Registration" is omitted from the record here. It appears on page 9 supra.

[fol. 32] CLERK'S NOTE: Appendix "C" to Amended Complaint, Letter from State of Louisiana, Joint Legislative Committee to Mrs. Myrtle C. Beard, Lake Providence, Louisiana (Registrar of Voters of East Carroll Parish), dated May 26, 1958 is omitted from the record here. It appears as Plaintiff's Exhibit No. 13 on page 201.

[fol. 33]

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF LOUISIANA

BATON ROUGE DIVISION

Civil Action File No. 2548

John Minor Wisdom, Judge; Herbert W. Christenberry, Judge; E. Gordon West, Judge.

[Title omitted]

MINUTE ENTRY OF ORDER DENYING DEFENDANTS' MOTION TO DISMISS—June 7, 1962

This matter came on for hearing on a former day on the motion of defendants to dismiss. Due consideration having been given to the pleadings, the oral argument of counsel, and the briefs filed by counsel for respective parties herein:

It It Ordered that the defendants' motion to dismiss be, and the same is hereby Denied.

[fol. 34] [File endorsement omitted]

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF LOUISIANA

BATON ROUGE DIVISION

Civil Action No. 2548

[Title omitted]

STIPULATION—Filed October 22, 1962

It is hereby agreed and stipulated between the parties to this action that U. Charles Mitchell is the Registrar of Voters of Caddo Parish; that he has served in that capacity since July 21, 1958; and that he has never required any applicant for registration for voting to read, explain or interpret a section or any part, of the state or federal constitutions.

Harry J. Kron, Jr., Assistant Attorney General, State of Louisiana, Attorney for Defendants.

Frank M. Dunbaugh, Attorney, Department of Justice, Attorney for Plaintiff.

Dated October 12, 1962

[fol. 35] [File endorsement omitted]

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF LOUISIANA

BATON ROUGE DIVISION

Civil Action No. 2548

[Title omitted]

STIPULATION—Filed March 1, 1963

The parties to this action hereby stipulate through their counsel to the authenticity of and to the introduction into evidence at the trial of this cause of the attached microfilm copies of the voter registration records for the following parishes as set out in the following schedule. The reels of microfilm are designated by abbreviations under each particular parish, for example:

EC-1 means reel 1 of the East Carroll Parish voter registration records and will be introduced into evidence at the trial as plaintiff's exhibit EC-1.

East Carroll Parish

EC-1—Voter registration records of East Carroll Parish, including all applications for registration forms LR-1 for the period January 1, 1957 to December 12, 1960.

EC-2—Voter registration records of East Carroll Parish, including all applications for registration and all constitutional test cards for the period January 1, 1961 to September 22, 1961.

EC-3 and 4—Voter registration records of East Carroll Parish, including all applications for registration and constitutional test cards for the period September 22, 1961 to August 22, 1962.

Claiborne Parish

CL-1 through CL-4—Voter registration records of Claiborne Parish, including all applications for registration for the period January 1, 1953 to April 24, 1961.

Red River Parish

RR-1 through RR-3—Voter registration records of Red River Parish, including all applications for registration, constitutional test cards, and affidavits of challenge for the period January 1, 1953 through December 31, 1956 and all applications for registration and constitutional test cards for the period January 1, 1957 to July 21, 1961.

[fol. 36]

Webster Parish

WR-1. through WR-7—Voter registration records of Webster Parish, including all applications for registration for the period January 1, 1957 through December 31, 1960 and for the period January 1, 1961 to August 8, 1962.

De Soto Parish

DS-1 through DS-5—Voter registration records of De Soto Parish, including all applications for registration and affidavits of challenge for the period January 1, 1953 to August 7, 1962.

Richland Parish

RL-1 through RL-9—Voter registration records of Richland Parish, including all applications for registration for the period January 1, 1957 through December 31, 1960 and the period January 1, 1961 to November 14, 1962.

West Carroll Parish

WC-1 through WC-4—Voter registration records of West Carroll Parish, including all applications for registration for the period January 1, 1957 through December 31, 1960 and the period January 1, 1961 to November 16, 1962.

Union Parish

UN-1 through UN-6—Voter registration records of Union Parish, including all applications for registration for the period January 1, 1953 through December 31, 1956 and all applications for registration for the period January 1, 1957 to November 12, 1962.

Ouachita Parish

OU-1 through OU-13—Voter registration records of Ouachita Parish, including all applications for registration for the period January 1, 1953 to December 13, 1960 except those of persons removed from the registration rolls after January 1, 1957, and including all affidavits of challenge for the period January 1, 1953 to December 13, 1960.

Morehouse Parish

MH-1 through MH-7—Voter registration records of Morehouse Parish, including all applications for registration for the period January 1, 1961 to May 24, 1962.

[fol. 37]

Franklin Parish

FR-1 through FR-8—Voter registration records of Franklin Parish, including all applications for registration and constitutional test cards for the period January 1, 1961 to May 22, 1962.

Jackson Parish

JX-1 through JX-6—Voter registration records of Jackson Parish, including all applications for registration and affidavits of challenge for the period January 1, 1953 to April 25, 1961.

East Feliciana Parish

EF-1 through EF-7—Voter registration records of East Feliciana Parish, including all applications for registration of negroes registered to vote as of August 8, 1960, and applications for registration of 50% of the white persons (every other one) registered to vote as of August 8, 1960, and all the rejected applications of white and negro persons for the period January 1, 1953 to August 8, 1960.

EF-9 through EF-12—Voter registration records of East Feliciana Parish, including all affidavits of challenge and including all precinct registers which contain a precinct register page for each registered voter in each precinct in East Feliciana Parish as of March 27, 1961.

Plaquemines Parish

PL-1 through PL-5—Voter registration records of Plaquemines Parish, including all applications for registration and all constitutional test cards for the period January 1, 1953 to March 31, 1962.

St. Helena Parish

SH-1 through SH-4—Voter registration records of St. Helena Parish, including all applications for registration for the period January 1, 1957 through December 31, 1960 and for the period January 1, 1961 to July 22, 1961, and all oath cards for the period January 1, 1961 to July 22, 1961.

Bienville Parish

BV-1 through BV-4—Voter registration records of Bienville Parish, including all applications for registra- [fol. 38] tion and affidavits of challenge for the period January 1, 1953 to November 19, 1960.

John Doar, Department of Justice, Attorney for Plaintiff.

Harry J. Kron, Jr., Assistant Attorney General, State of Louisiana, Attorney for Defendants.

[fol. 39] [File endorsement omitted]

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF LOUISIANA

BATON ROUGE DIVISION

Civil Action No. 2548

[Title omitted]

STIPULATION—Filed March 1, 1963

The parties to this action through their counsel hereby stipulate to the introduction into evidence at trial of the following transcripts of trial, certified by the clerk of the district in which the action was tried or by the official reporter of the trial, to include the testimony or stipulated testimony of the witnesses named below in lieu of the examination of these witnesses by deposition or at the trial of this action:

A. *United States* v. *Association of Citizens Councils, et al.* (Bienville Parish, Louisiana) Civil Action No. 7881, Western District of Louisiana:

Pauline Culpepper
Marie Kilgore
Moses Smith
Waive Crawford

[fol. 40]

J. N. Blankenship
O. W. Gray
Artis Melton
Silver Parker
Otis Green
Thelma Tobin
Earl E. Smith
Gloria Pyle
Ruby Branch
James L. Deweese, Jr.
T. J. Lafield
Leroy O. Baxley
Owen Black
S. A. Bruce
Arthur L. Salter

B. Transcript of trial, *United States* v. *Wilder, et al.* (Jackson Parish, Louisiana) Civil Action No. 8695, Western District of Louisiana:

Estelle Wilder
Daisy Knox
Bernice Grant
Joan Dunn
Erven Bryan
Mary K. Bryan
Willie K. Stringer
Elle Corene Scott
Aszerlean Raybon
Darlean McCarter
Flynn Melton

[fol. 41] C. Transcript of trial, *United States* v. *Fox, et al.* (Plaquemines Parish, Louisiana) Civil Action No. 11625, Eastern District of Louisiana, to include the testimony of all witnesses who testified at the trial of this action and the testimony of witnesses whose depositions were taken on the following dates:

February 22, 1962
February 26, 1962

February 27, 1962
February 28, 1962
March 1, 1962
March 2, 1962
April 2, 1962

The parties further stipulate that the witnesses named in subparagraphs A and B above are all the witnesses who testified with respect to the interpretation test as administered in Bienville and Jackson Parishes. Subparagraph C includes all the testimony admitted into evidence at the trial of the Plaqemines Parish case.

January 21, 1963

Frank M. Dunbaugh, Attorney, Department of Justice, Attorney for Plaintiff.

Harry J. Kron, Jr., Assistant Attorney General, State of Louisiana, Attorney for Defendants.

[fol. 42] [File endorsement omitted]

In the United States District Court
For the Eastern District of Louisiana

Baton Rouge Division

Civil Action No. 2548

[Title omitted]

Stipulation—Filed March 1, 1963

The parties to this action through their counsel hereby stipulate that Special Agents for the Federal Bureau of Investigation, if called as witnesses at the trial of this action, will testify to statements given them by various Registrars of Voters in Louisiana, which statements are contained in attachments to this stipulation labeled Ex. 301 through Ex. 311. The purpose of this stipulation is to avoid the calling of these agents to appear as witnesses in this action, and in no way forecloses either party from as-

[fol. 43] serting the legal admissibility or inadmissibility of the testimony contained in the attachments.

The following is a schedule of the attachments to this stipulation, labeled to conform to plaintiff's overall method of labeling exhibits submitted as evidence in this action:

Exhibit	Name of FBI Agent	Name of Registrar who gave statement	Date statement was given
301	Regis L. Kennedy	John S. Allen (La Salle Parish)	Aug. 13, 1956 & Aug. 15, 1956
302	Vernon G. Smith	Cleighton Bushnell (Rapides Parish)	Oct. 10, 1956 & Nov. 15, 1956
303	Thurman P. Kelley	Winnice P. Clement (Webster Parish)	Dec. 19, 1957 & March 6, 1958
304	Earl Cox	Woodrow W. Farrar (Union Parish)	Dec. 20, 1956
305	Earl Cox	Mrs. John Earl Jones (Lincoln Parish)	Nov. 19, 1956
306	Regis Kennedy	Mae Lucky (Ouachita Parish)	June 4, 1956
307	Earl Cox	Mae Lucky (Ouachita Parish)	Aug. 13, 1956 & Aug. 17, 1956
308	Regis Kennedy	Mae Morin (Deputy, Ouachita Parish)	June 5, 1956 & June 8, 1956
309	Earl Cox	Mae Morin (Deputy, Ouachita Parish)	Aug. 13, 1956 & Aug. 17, 1956
[fol. 44] 310	Regis L. Kennedy	Joseph A. Slawson (De Soto Parish)	Nov. 26, 1956
311	Earl Cox	Estelle Wilder (Jackson Parish)	Nov. 8, 1956

Harry J. Kron, Jr., Assistant Attorney General, State of Louisiana.

David L. Norman, Attorney, Department of Justice.

[fol. 45]

PLAINTIFF'S EXHIBIT No. 301

Special Agent Regis Kennedy of the Federal Bureau of Investigation will testify that:

On August 13, 1956, JOHN S. ALLEN, Registrar of Voters, La Salle Parish, Jena, Louisiana, was interviewed at which time ALLEN advised him that he had been the Registrar of Voters for 22 months.

ALLEN advised that WILLIAM SID MOSELEY and JAMES A. HODGES had filed challenges with his office, challenging the rights of 345 voters registered in Precinct 7, Ward 4, of La Salle Parish. He stated that all of the individuals registered in this precinct are Negroes. He advised that there were approximately 355 registered voters in this precinct prior to the challenges. He advised that the number 355 might be subject to an adjustment due to a death or some other reason about this time.

At the completion of the challenges, there were ten registered voters left in this precinct.

ALLEN advised that one challenged voter had been returned to the rolls by affidavits of three white persons.

ALLEN further advised that two individuals have reregistered since they were challenged. These individuals are MYRA J. FLETCHER and JOE L. HART. He advised that of the 345 challenged letters which were mailed, 31 were returned with postmarks reflecting un- [fol. 46] known, and three were returned postmarked "Address changed—no forwarding address."

JOHN S. ALLEN advised that he reviewed the law as reflected in the Revised Statutes of the State of Louisiana, 1954, a copy of which he has available in his office, and decided that WILLIAM SID MOSELEY and JAMES A. HODGES were within their rights to challenge the voters of Precinct 7, Ward 4. He advised that HODGES and MOSELEY both reviewed the records of this precinct and found errors on the registration cards. These errors fell generally into the following classifications:

Failure to fill out the card by the registrant;
Incompletely filling out the card;
Errors in answering the questions on the card;
Failure to sign the card;
Failure of the Registrar to execute an affidavit for illiterates or persons physically handicapped;
Failure to use the proper registration card—for example, registering persons who are unable to read or write for reasons of physical disability on the wrong form.

ALLEN advised that he himself had registered a number of illiterates and had failed to obtain this affidavit because he was not familiar with the requirement. He stated that he had to learn his job as he went along and he made mistakes by which the registrant should be challenged.

[fol. 47] On August 15, 1956, JOHN S. ALLEN was reinterviewed regarding the procedure used for re-registration. He advised that two Negroes who applied were required to produce two witnesses who were registered in Ward 4, Precinct 7, to identify them. They were required to fill out their own registration card correctly. He further advised that he asked them to give a reasonable interpretation of the Constitution of the State of Louisiana and required them to provide a written answer to him of their interpretation. He advised that the decision to do this was his own and in accordance with his understanding of the laws of the State of Louisiana and that he had no legal opinion from any other officer of the State of Louisiana.

[fol. 48]

PLAINTIFF'S EXHIBIT No. 302

Special Agent Vernon G. Smith of the Federal Bureau of Investigation will testify that:

On October 10, 1956, CLEIGHTON BUSHNELL, Registrar of Voters, Rapides Parish, Alexandria, Louisiana, was interviewed at which time BUSHNELL advised him that on September 6, 1956, a group of citizens came to his office as a body and that **Otis Edgerton, Jr.**, acted as spokesman for the group.

Bushnell stated that according to a statement by **Edgerton** the group was acting in the capacity of private citizens and did not represent the Citizens' Council. **Bushnell** recalled that, in addition to **Edgerton**, the group was composed of the following persons:

Lewis J. Seale
Don. W. Moorehead
A. B. Andrews
Cecil R. Blair
L. B. Duke
W. E. Kees, Jr.
T. M. Eskew
John McConnell
Jean Phairs
T. W. Holloman.

Bushnell stated all persons of this group signed challenges of Negro voters' registration except **Holloman** and **Pharis**.

Bushnell stated the group proceeded to go through the registration cards and underline with a red pencil any part of Negro registrants' cards which they felt constituted improper or illegal registration by Negro registrants.

[fol. 49] **Bushnell** related that various reasons were used for claiming the Negroes were illegally registered. He said in some instances Negroes were challenged for abbreviating that part of the application which states "Give Color" for inserting a "C" instead of using the word "Colored" or "Negro." He stated the application form does not call for a statement as to race but instead for the color of the applicant.

Bushnell advised some were challenged for using abbreviations of "M" for male and "F" for female in regard to the statement of sex. **Bushnell** stated that about 60 to 70 per cent of the challenges are based on the registrant's leaving blank or using the wrong word in the part of the application that reads "I am not now registered as a voter in any other Ward or Precinct of this State except ...."

Bushnell reported that 1,058 Negro registrants have been challenged to date and that to his knowledge 33 of these have been rechallenged after having filed counter-affidavits. **Bushnell** also stated that no white registrants have been challenged to his knowledge. He stated the card of one white registered voter came through for processing but that when this was pointed out, he was told it was unintentional and that the individual was not to be challenged.

Bushnell stated there has been no statement or ruling to his knowledge as to the number of times a [fol. 50] person can be challenged. He stated the challenged registrants had a choice of having three counter-affidavits filed in their behalf by registered voters, or taking their case to Court to show they are legally registered.

This action, the filing of counter-affidavits, he stated must be taken within a deadline period of ten days and that failure to do so would cause cancellation of registration. He stated in all instances the challenged Negro voters of Rapides Parish have chosen the former course and a large per cent of those challenged have filed counter-affidavits as required by law.

He stated those not meeting the ten-day deadline requirement for filing counter-affidavits will be removed from voters' rolls.

Bushnell further stated when the challenged registrants have counter-affidavits filed stating they are properly and legally registered, the challengers have the alternative of rechallenging them or taking the matter to court to prove they are illegally registered and should be stricken from the registration rolls.

Bushnell stated the rechallenges now are mostly against the affidavits originally used by the challenged registrants in that they attest to know the challenged person.

[fol. 51] **Bushnell** stated a new affidavit had been drawn up which had the approval of the State Attorney General's office. He furnished a copy of this form which reads as follows:

"Personally came and appeared on this the .... day of .... 1956, before me .... Registrar of Voters in and for the Parish of Rapides, State of Louisiana, ... and .... who first being duly sworn by me, do depose and say:

"That they are each personally acquainted with .... Registrant; that they have reason to believe and do believe that .... application card for registration is properly completed, that they have investigated the facts of the case and of theer own personal knowledge know that .... application card for registration is properly completed, that they have investigated the facts of the case and of theer own personal knowledge know that .... now resides at .... Street, Precinct No. ...., Ward No. .... of this Parish, and has continuously resided in that Precinct and Ward for the past .... months, and has resided at the address aforesaid, and has resided in the Parish of Rapides for the past .... months."

....
Signature of registered voter

....
Signature of registered voter

....
Signature of registered voter

[fol. 52] "Sworn to and subscribed before
me, on this .... day of 1956

...."
"Registrar of Voters

Bushnell stated he had remained neutral in this matter and has attempted to discharge the duties of his office fairly and impartially as required by law.

Bushnell stated the action of the group of challengers has placed a tremendous burden on his office and has made it difficult for him to handle the required duties of his office promptly and efficiently.

Bushnell continued there has been no ruling from the Attorney General's Office of the State of Louisiana on the number of times a registrant can be challenged and consequently, the entire matter has results in a "merry go round" and that he, **Bushnell**, seems to be the "May Pole."

Bushnell stated that he knew of and had been advised of no other requirements of challenged voters then to file the necessary counter-affidavits in order to remain on the Parish registration rolls.

On November 15, 1956, **Bushnell** advised him that challenges and rechallenges of Negro registrants on the voter rolls of that parish continued through October 20, 1956. He stated that was the last date that a challenged voter could meet the ten-day deadline and still allow the Registrar of Voters to furnish a list of registration roll to the Clerk of Court one week [fol. 53] prior to the National Election on November 6, 1956. He stated the law provided that he must furnish a list of registration to the Clerk of Court one week prior to the National Election in order that the Clerk of Court could seal the list in the voting machines for each precinct. **Bushnell** related that members of the White Citizens' Council did not claim to understand this; but that he, **Bushnell**, stated he refused to accept any challenges or rechallenges after October 20, 1956.

Mr. **Bushnell** advised that 1,273 challenges to Negro registrants went out from his office. He stated that some persons in this number possibly received more than one challenge in view of the fact that there was a small per cent of duplication on the part of the individuals who were challenging the Negro registrants. **Bushnell** stated that of this number, 67 were rechallenged. They were rechallenged on the basis that the counter affidavit signed in their behalf did not attest specifically to the fact that the challenged registrant was legally registered. Of this number BUSHNELL stated that 628 of those challenged were certified on the registration rolls of that parish as a result of having filed affidavits of three witnesses.

BUSHNELL stated that 626 were dropped as a result of not having answered the citation and challenge. He [fol. 54] stated that 81 of these challenges that were not answered were returned to his office undelivered by reason that the addressee had moved. He stated that one or two other had died during that period. He added that only one challenged registrant who came to answer the challenge was refused by the Committee of Negro Citizens and was removed for that reason.

BUSHNELL stated that the 628 figure was the number of Negro voters whose names were certified despite the fact that they were challenged.

BUSHNELL advised that about September 19, 1956, the White Citizens' Council demanded a change in the counter affidavit being used by the Negro registrants after 67 who had answered the challenge of their registration and were rechallenged. BUSHNELL stated as a result of this demand he took the matter up with the Attorney General's Office in Rapides Parish, Louisiana, discussed the matter with JACK GREMILLION, Attorney General, and the two reached an agreement as to the form to be used and which was previously reported.

The text of the form of affidavit used by the Registrar before a change in this counter-affidavit was demanded by members of the White Citizens' Council was taken from Louisiana revised statute R.S. 18:132. A true copy of this affidavit was furnished by Mr. BUSHNELL and is set out as follows:

[fol. 55] "Personally came and appeared on this the .... day of .... 1956, before me, ... (Deputy) Registrar of Voters in and for the Parish of ...., State of Louisiana, ...

and .... and .... who being first duly sworn by me, do depose and say:

"That they are each personally acquainted with .... registrant; that they have investigated the facts of the case, and of their own personal knowledge know that .... now resides at .... Street, Precinct No. .... Ward No. .... of this Parish, and has continuously resided in that precinct and ward for the past .... months, and during that time has resided at the address aforesaid, and has resided in the Parish of .... for a period of ...."

....

"Signature of registered voter.

....

"Signature of registered voter.

....

"Signature of registered voter.

"Sworn to and subscribed before
me, on this .... day of .... 1956.

....

"(Deputy) Registrar of Voters."

[fol. 56] **Bushnell** advised that as of July 31, 1956, there were 3,177 Negroes contained on the registration rolls of Rapides Parish. **Bushnell** stated that 3,483 is the closest figure he can obtain as to the number of Negro registrants on the voter rolls of that parish shortly before the practice of challenging these registrants was started. He stated this figure was arrived at by adding 2,857, which was the number of Negro registrants on the rolls on November 6, 1956, and 626, which was the number removed from the rolls as a result of having been challenged. He stated the number of Negro registrants could actually have fluctuated between July 31, 1956, and September 9, 1956.

[fol. 57]

PLAINTIFF'S EXHIBIT No. 303

Special Agent Thurman P. Kelley of the Federal Bureau of Investigation will testify that on December 19, 1957, Mrs. WINNICE P. CLEMENT, the Registrar of Voters of Webster Parish, Louisiana, gave to him a signed statement, the full text of which is as follows:

"Minden, Louisiana
"December 19, 1957

"I, Mrs. Winnice Pratt Clement, make the following free and voluntary statement to Thurman P. Kelley and Anthony O'Tousa, who have identified themselves as Special Agents of the Federal Bureau of Investigation. No threats or promises have been made to cause me to make this statement and I have been told it may be used in a Court of Law against me. I have been advised of my right to consult an Attorney.

"I am the Registrar of Voters of Webster Parish, Louisiana, and have held this office for 17 years.

"I am attempting to run this office as best I can using the Louisiana State Law as my guide.

"When an individual comes into this office to register I find out where they live and then give them the "Form of Application For Registration" to fill out. After the card is completed I have the individual read a portion from the State Constitution and then explain it to me. If the individual can not read I read to them and then have it explained to me. Sometimes I have the applicant explain the Constitution before filling out the card and if the explanation is satisfactory they fill out the card if it is not satisfactory then I do not give them the card to fill out. I also tell the applicant their ward and precinct numbers after they tell me where they live.

[fol. 58] "I disqualify an individual if the 'Form of Application For Registration' is not properly filled out or if the individual cannot interpret the Constitution.

I ask for only a reasonable explanation. Some people ask me questions about the filling out of the card and I try to be reasonable in giving proper help and supervision.

"The above rules apply to all those attempting to register.

"To the best of my ability I am not showing any partiality or favoritism to any individual or group in allowing people to register.

"I do not keep any record of individuals who are turned down because they do not qualify.

"As of November 1, 1957 my records reveal there are 5,596 white registered voters and 70 colored registered voters in this parish.

"Every one who registers uses the same office. The is a sign on my door which states 'One in office at a time—Husband and Wife excepted'. This sign is on the door so I can properly supervise the registration of voters. The door has a clear glass panel so people from the outside of my office can see in.

"I am the only employee in the office; however, early in the year when the work was heavier Mr. H. E. Hamner, a local citizen, assisted me.

"Up until January 1, 1957 no one was required to interpret the Constitution; however, due to criticism of Registrar of Voters in various parts of the state I decided to abide by the State Law as near as I possibly could, and this being a requirement I put it into effect at the time everyone had to re-register. There is no discrimination involved in my handling this matter.

[fol. 59] "Having applicants explain clauses of the constitution has materially affected the number of registered voters in Webster Parish. It is noted that when the rolls were cleared as of December 31, 1956 there were some over 1700 Negro voters and slightly over 12,000 white voters. As previously noted there were 70 Negro registered voters and 5596 white registered voters as of November 1, 1957.

"I have read this statement consisting of this and three other pages and it is true.

"/ Winnice P. Clement

"Witnessed:

/s/ THURMAN P. KELLEY, Special Agent FBI,
New Orleans, La.

/s/ ANTHONY O'TOUSA, Special Agent, F.B.I.,
New Orleans, La."

Special Agent Kelley will also testify that on March 6, 1958, Mrs. WINNICE PRATT CLEMENT, Registrar of Voters, Minden, Louisiana, advised him that as of February 1, 1958, there were 6303 white registrants and 71 colored registrants qualified to vote in Webster Parish. Of this group there were no white or colored illiterates.

She stated that she does not keep any record of the negro or white applicants that are rejected. She advised that often times she never learns their names inasmuch as they are not able to fill out the registration card or interpret the constitution.

She named three white registrants whom she refused to register for inability to fill out the application card and properly interpret the constitution. She stated that she was unable to recall any other individuals that had failed to qualify.

[fol. 60]

PLAINTIFF'S EXHIBIT No. 304

Special Agent Earl Cox of the Federal Bureau of Investigation will testify that:

WOODROW WILSON FARRAR advised him on December 20, 1956 that he had been Registrar of Voters since January, 1954. FARRAR stated that just prior to June, 1956 he was invited to attend a meeting of the local Citizens' Council held at the Courthouse, Farmerville, by RAYMOND F. MASLING, President of the Farmerville Citizens' Councils of Louisiana. FARRAR stated that he was not a member of the Citizens' Council and had not previously attended any meetings. He stated that **Masling** presided at this meeting, which was attended by numerous citizens and by members of the local Police Jury, including **Denis Long**, President of the Union Parish Police Jury. **Farrar** stated that the topic of discussion at the meeting was the purge of the voter registration rolls of persons illegally registered. He advised that he recalls no specific statements or discussion by anyone present that the purge was aimed solely at removing Negroes from the rolls.

Farrar continued that, in about June, 1956, and continuing through October, 1956, the following persons, and possibly others whom he did not recall, came into his office on several different occasions and examined voter registration cards:

From Ward #1:

Armand Rabun, Attorney;
John C. Wagnon, Attorney;
Broadus Taylor, Former Tax Assessor of Union Parish;
Raymond F. Masling, Architect and Leader of local Citizens' Council.

From Ward #2:

S. H. **Cooper**;
B. J. **Henry**.

[fol. 61] *From Ward #3:*

R. S. **Burnside**;
W. H. **Barron**;
C. D. **Elkins**;
Virgil H. **Rhodes**.

From Ward #4:

E. N. **Lee**;
W. C. **Smith**.

From Ward #8:

Bert Thedford;
Max Parker.

Farrar stated that, as the above-named persons came into his office for the purpose of examingng the registration records, he examined the record to verify that each was a duly registered and qualified voter of the Parish and that no errors appeared on their registration cards. He stated that he then made available to them for review all registration cards which they requested.

He advised that he maintained Negro and white cards separately in his file and that only Negro cards were requested in Wards #2, 3, 4, 8 and 9. He stated that on one occasion white and Negro cards from Ward #1 were requested and reviewed.

He advised that, as a result of these examinations, 600 Negroes and no whites were subsequently challenged. He explained that, on the one occasion when Negro and white cards from Ward #1 were examined, a number of challenge letters were made up based on errors found, an unknown number of which were for white cards, but that these letters were not mailed out within the 48-hour period as required by law, and that all of these letters were subsequently destroyed. He added that, thereafter, only Negro cards in Ward #1 were requested for review.

Farrar stated that he had no part in the selection of those persons who were to be challenged and that he [fol. 62] merely made available for review all cards requested. He stated that he attempted to adhere to the letter of the law in handling these challenges and that he relied on the advice of his legal adviser, **Armand Rabun**, a local attorney, who was also active in making some of the challenges.

Farrar stated that, if a challenged person came in in response to the challenge and filled out a card correctly, he was then required to interpret a clause of the Constitution, but, if he failed to give a reasonable interpretation of the clause of the Constitution first given to him, he was then given an opportunity to try to read and interpret another clause of the Constitution. He stated that anyone challenged who was successful at filling out a card completely and correctly and then interpreting a clause of the Constitution was never dropped from the registration rolls.

Farrar stated that none of those challenged raised the question of whether they could legally be required to interpret a clause of the Constitution or whether they might be legally required to fill out new registration cards, since they were already registered to vote. He stated that since the persons who had been challenged had not been required to interpret a clause of the Constitution when they registered previously, he required them to interpret a clause of the Constitution at the time they came in in answer to the challenges.

Farrar furnished the following information as to numbers of registered voters in Union Parish:

Number of white voters, prior to the challenges—6895 as of February 1, 1956;

Number of Negro voters, prior to the challenges—1600 as of February 1, 1956;

Number of white voters challenged—none;

[fol. 63] Number of Negro voters challenged—600 (It is noted that **Farrar** stated that he kept no list of those challenged and had no record of those challenged except for a file on each challenge sent out. He had the newspapers reflecting the publication of the names of those challenged, and he referred to those newspapers to obtain the number challenged.)

Number of white voters challenged who requalified—none were challenged;

Number of Negro voters challenged who requalified—estimated by **Farrar** at 89, it being noted that the total who had registered and re-registered between February 1, 1956 and October 11, 1956 was 99;

Farrar stated that he would have no way of knowing or estimating the number of Negroes who had tried but failed to requalify after the challenges.

Number of Negro voters on registration rolls after challenges—1099, as of October 11, 1956.

Farrar stated that the vast majority of those challenged made no attempt to requalify. He stated that there were no challenges in Wards #5, 6, 7 and 10, but that challenges were made in Wards #1, 2, 3, 4, 8 and 9.

Farrar stated that he had nothing to do with determining who was to be challenged, and that he acted in a purely administrative capacity in accepting and mailing the challenges. He stated that he did not discriminate against the Negroes and that he did not conspire [fol. 64] with anyone in connection with the challenges. He stated that, after the voter challenges began, he started requiring all persons, both Negro and white, who came in to register, to interpret a clause of the Constitution in order to register. He stated that there were very few white persons who registered during this period, but he recalled that he had refused to register one white man because of his inability to give a satisfactory interpretation of a clause of the Constitution. He could not recall the identity of any white person who had been unable to register because of failure to interpret a clause of the Constitution.

[fol. 65]

PLAINTIFF'S EXHIBIT NO. 305

Special Agent Earl Cox of the Federal Bureau of Investigation will testify that:

On November 19, 1956, Mrs. JOHN EARL JONES, Registrar of Voters, Lincoln Parish, Ruston, Louisiana, was interviewed at which time she advised him that she had been Registrar of Voters here since 1940.

Mrs. Jones stated that in about August, 1956 several members of local Citizens' Council had told her that they were going to purge her voters' list. In the latter part of August, Doctor W. H. Kimbell contacted her and told her that he was chairman of the local Ruston Citizens' Council and that the Citizens' Council had voted to purge the voter registration rolls in the parish and requested her permission for Citizens' Council members to come in her office and review her records for that purpose.

She advised that she attended a meeting of the Citizens' Council members held in the Court Room of the Court House in Ruston in early September, 1956, at which time the subject of illegally registered voters and the block voting of Negroes was discussed. She stated that it was voted at that time to purge the voter registration rolls. Mrs. Jones related that to her knowledge, no specific statements were made by any members at this meeting or at any other time that the purpose was to get Negroes off of the registration rolls or that the voter registration purge was directed toward Negroes other than the fact that block voting of Negroes was mentioned at the above meeting. Mrs. Jones related that she was not requested to attend this meeting but merely attended it as an interested citizen. [fol. 66] She stated that on about September 1, 1956, members of the local Citizens' Council began coming into her office after hours and she agreed to stay after hours in her office and cooperated with them. She advised there were groups of seven or eight persons at a time in her office for a period of about three weeks and estimated that a total of forty or fifty persons actually came in and reviewed cards from time to time. Some of these were from Citizens' Council groups from Simsboro and Choudrant, Louisiana in addition to the members of the Ruston Citizens' Council. Mrs. Jones declined to identify any of these persons who were in her office actually reviewing cards and challenging voters.

Mrs. Jones stated that she granted these persons permission to review her records and they proceeded to review the cards in Wards 1, 2, 3, and part of Ward 4. She advised that their purpose was to pull those cards which contained an error of any kind and as errors were found on these cards, the cards were pulled and were kept separately after putting a red mark on each card by each error. The pulled cards were then reviewed by other persons other than the one actually pulling the cards. At time she stated that she would review these pulled cards and on several noted that she herself had filled in part of the cards and had made an error and on several of these she obtained the approval of the Citizens' Council members present to place these cards back in the file of qualified voters. She stated that only a few such cards were put back, however.

According to Mrs. Jones, after these files were reviewed and all of the cards in the Wards mentioned [fol. 67] above were pulled, the Citizens' Council brought in several typists, who made out challenge forms and the Citizens' Council members began signing the challenges in her presence and she believed that each one signing had reviewed the registration card to which that challenge pertained as each card was attached to the challenge form for that card.

She stated that when the first challenged voters began to come in to the office, she showed them their cards pointing out the errors on each.

She stated that she then determined if the error was slight and serious and if it was slight, such as the information not being shown in the proper blanks and if she knew the person was qualified by education or their station in life, she allowed them to correct the card and do nothing else to requalify.

She stated that if she considered the error serious she showed the card to the challenged voter and allowed them to review it to see what the errors were. She would then take the old card from them and give them a new card and allow them to fill it out. After this card was completed she would take it and tell the person that they had to have three witnesses to identify them and to sign an affidavit of retention. If this was completed, she would then tell them that she would determine later if they were qualified and would mail them a ceritificate of registration if qualified.

According to Mrs. Jones, there were 8,649 registered voters on October 6, 1956 of whom 7,638 were white and 1,011 were Negroes. She stated that she could locate no record of the number of voters registered prior to instant challenges.

[fol. 68] The lists furnished by Mrs. Jones reflect that a total of 353 persons were challenged, of whom 325 were Negroes and 28 white. It is noted that this list did not designate which persons were white and which were Negroes, but Mrs. Jones advised which of these were white and pointed out the 28 names referred to. Of these 234 failed to qualify or failed to answer the challenge of whom 224 were Negroes and 10 white. This list did designate the race of the persons listed. This would indicate that of 119 who reregistered and qualified, 101 were Negro and 18 white. It would also indicate that there were 8,883 registered voters prior to the challenges, of which 7,648 were white and 1,235 were Negroes.

[fol. 69]

Plaintiff's Exhibit No. 306

Special Agent Regis Kennedy of the Federal Bureau of Investigation will testify that:

On June 4, 1956, Mrs. Mae Lucky, Registrar of Voters, Ouachita Parish, advised him that she was appointed as Registrar of Voters on January 1, 1953, and that permanent voters' registration was established in Ouachita Parish as of that time.

Mrs. Lucky advised that shortly after the first primary election for the Governor of the State of Louisiana which occurred on January 17, 1956, she began receiving reports from various sources that the records of the Registrar of Voters' Office were to be checked for irregularities in registration. She advised that she did not know the identity of these individuals.

Mrs. LUCKY advised that it was her intention to place the records in shape prior to them being checked by these unknown persons, and she stated that she caused a review of the records and sent letters to 1,028 persons consisting of 364 white individuals and 664 colored individuals. She advised that this letter was sent to individuals that resided in every ward and precinct of the parish and was not confined to registrants living in the city of Monroe.

Such letters were mailed by the Registrar of Voters' Office between February 15, 1956, and April 3, 1956. She advised that the registration cards in the Registrar of Voters' Office, many of which had been prepared by employees prior to her assuming office, had a great many mistakes. She stated that some of [fol. 70] the cards were over seven years old and the person registering had failed to complete the card, had placed an improper date of birth or failed to file the card, and in many cases the Registrar or Deputy Registrar had failed to sign the card.

Mrs. LUCKY advised that about March 1, 1956, a group of individuals under the direction of BILLYE ADAMS, an attorney and now president of the Citizens Council of Ouachita Parish, started a check of the rolls of the office of the Registrar of Voters. She advised that a check was started with Ward 10, Precincts 6, 7, 8, 9 and 10, in which there were approximately 3,000 Negro voters registered and also Ward 3, which had approximately 300 Negroes registered. She advised that these wards are the wards comprising the area of the city of Monroe, but stated that the boundaries of Ward 10 are not identical with the boundaries of the city of Monroe. Mrs. LUCKY advised that these precincts in Ward 10 are predominantly Negro.

Mrs. LUCKY made available a copy of a list of the items which the Citizens Council were checking. This list is as follows:

"KEY

1. Application not filled out.
2. Writing on card and Signature does not match.
3. Ability to interpret Constitution.
4. Not sworn before registrar or deputy.
5. No application card.

[fol. 71] 6. Name on application and certificate are difference.

7. Two cards—One person
8. No proof of identification and age.
9. Signature at top of certificate different from voting signature.
10. Application not signed (Printed)
11. Improper application form.
12. Application signed "X", but no witness.
13. No signature on voting certificate."

Mrs. LUCKY advised that on April 16, 1956, the first affidavits of the Citizens Council were filed and the first letters were sent out. She advised that among this group, only Negro registered voters were challenged to the best of her knowledge. She advised that this challenge was not particularly extensive, but could give no figures on the exact number of challenges that were mailed. She advised that this group of challenges did not conflict with the challenges that had been mailed by her office prior to the Citizens Council Committee instituting their check.

Mrs. LUCKY advised that during a period of four days following the general election of April 17, 1956, and thirty days before the election of May 22, 1956, the books were opened for registration. She advised that the Citizens Committee, who were present in her office during this time, claimed to have observed irregularities and then went back over the records of the

Negro registered voters and challenged a large number of them. Mrs. Lucky advised that she estimates [fol. 72] that there were 4,000 registered Negro voters in the city of Monroe as of January 16, 1956, and on May 15, 1956, there were 921 registered Negro voters. She stated she could only approximate the number in January, but the number on May 15, 1956, is accurate.

Mrs. Lucky advised that after the first challenges were mailed out by the Citizens Council, very few people came in at first to correct their cards. She advised that the persons that would come in were advised that it would be necessary for them to bring three witnesses to identify the individual challenged or to re-register to vote. She advised that the first individuals that appeared at the office were advised that they must have to identify them a registered voter from the same precinct who had not been challenged by the Citizens Council and that a voter could identify only one person.

Mrs. Lucky advised that this was her understanding of the law and that she received no advice from the Citizens Council or anyone else as to the procedure to be followed. She advised that after a few days of this procedure, Mr. James A. Noe, former governor of the State of Louisiana, protested the procedure and Mr. William Shaw, Assistant Attorney General, for the state of Louisiana, advised her that the procedure was incorrect and that a voter could identify any number of persons just as long as he was a registered voter. Mrs. Lucky further advised that those individuals that were re-registered were not required to interpret the Constitution.

[fol. 73] Mrs. Lucky advised that the corners, stairways, and halls of the Court House at Monroe, Louisiana, became filled with individuals attempting to file affidavits and answer the challenges of the Citizens' Council. She advised that it was possible to handle approximately 100 individuals per day, but many more were present and could not be handled. She advised that her office was oepn at 8 AM in the morning and remained open during lunch period until 5 PM. She stated on Saturday her office was open one-half day.

She advised that those persons who could not be handled during office hours were requested to return the next day. She stated that one of the reasons she could not keep her office open later was it was necessary for her to sign the affidavits prepared by the Citizens' Council and do other necessary work in connection with the preparing of the lists for the polls in the May 22, 1956, city election.

[fol. 74] PLAINTIFF'S EXHIBIT No. 307

Special Agent Earl Cox of the Federal Bureau of Investigation will testify that:

On August 13, 1956, Mrs. Mae Lucky, Registrar of Voters, Ouachita Parish, Monroe, Louisiana, advised him that she had a list of 3183 names of persons to whom she stated letters had been sent between May 30, 1956, and June 4, 1956, advising them to come in and reregister. She stated that nearly all of these letters were directed to white persons as Negroes had already been challenged by the Citizens' Council. Of this number, approximately 2100 persons came in to reregister, according to Mrs. Lucky. She stated that no record was kept of those who were disqualified, but that she did not disqualify anyone on interpretation of the Constitution. She stated that a small number, possibly as many as twenty, either were unable to fill out their registration cards or they refused to do so, and for that reason they were not reregistered and were removed from the roll of voters.

When interviewed on August 13, 1956, Mrs. Lucky stated she had required everyone who came in in response to these letters to reregister and to read and interpret a portion of the Constitution. Subsequently, Mrs. Lucky was re-interviewed on August 17, 1956, after a number of persons had been interviewed and had advised that they were not required to read and interpret a portion of the Constitution, and, at that time, she stated that she was mistaken as to having [fol. 75] required everyone to read and interpret the

Constitution. She stated she had not required everyone to do so during the first couple of days when people were coming in in such great numbers in response to this group of letters, as she was so rushed. She stated, however, that she did require anyone whom she did not know and whom she suspected of being unable to do so to read and interpret a portion of the Constitution. Mrs. Lucky advised that, after about two days from the time this group began coming in, she began requiring everyone to read and interpret the Constitution in order to reregister.

[fol. 76] PLAINTIFF'S EXHIBIT No. 308

Special Agent Regis Kennedy of the Federal Bureau of Investigation will testify that:

On June 5, 1956, Mrs. Mae Morin advised him that her responsibility as Deputy Registrar has been for the most part the handling of Negro registrants incident to the volume of challenges which were sent out by the Citizens' Council. She was extremely burdened with the reregistrations and new registrations of the Negro voters. She stated that from time to time Mrs. Lucky assisted her in the reregistration and registration of these voters.

She advised that during the course of answering these challenged registrants she had occasion to have representatives of the Citizens' Council to observe her in the act of registering these potential voters. She stated that for the most part and almost entirely these individuals sat in the Ouachita Parish police jury room apart and away from where her desk was located in this office. She stated on only one instance could she recall any interference by any of these individuals. She stated that she could not identify this person who interfered but related that during the course of questioning a registrant as to the interpretation of the Constitution, this unidentified individual interjected and said she was being too easy with this person. Mrs. Morin said that she advised this individual to stay behind the police jury enclosure and to have nothing further to [fol. 77] do with her when a registrant was being interviewed. She said that she told this individual that if he had anything to say to her, he could say it after she completed her interview or at a time when she was not busy.

On June 8, 1956, Mrs. Morin advised that the procedure now being followed in the Registrar of Voters' Office is to have the individuals that have been challenged and removed from the rolls be reregistered at which time they are required to give an interpretation of the Constitution. She, as Deputy Registrar, is the individual who makes the decision as to whether the interpretation is correct. At the present time, they are using some cards prepared by the Citizens' Council which has a larger sized type than found in the usual copies of the Constitution, which the applicants for registration are required to read and interpret. Mrs. Morin advised that she is keeping all of the registration cards of the persons who do not qualify for registration with the reasons for their failure to qualify written on the back.

[fol. 78]

PLAINTIFF'S EXHIBIT No. 309

Special Agent Earl Cox of the Federal Bureau of Investigation will testify that:

On August 13, 1956, Mrs. Mae Morin, Deputy Registrar of Voters, Ouachita Parish, Monroe, Louisiana, advised him that she did not wait on any white persons who came in in response to the 3183 letters sent out between May 30, 1956, and June 4, 1956. She stated she waited on all the Negroes who came in and that she did require them to read and interpret a portion of the Constitution. She stated that nearly all the Negro voters had already been challenged by the Citizens' Council so that very few Negroes were included in this particular group of 3183 letters. When Mrs. Morin was re-interviewed on August 17, 1956, she stated that she had received telephone calls from persons contacted by the FBI in connection with this investigation saying that she had waited on them when they came up to reregister. She stated that she had thought about this matter further and recalled that she did relieve Mrs. Lucky during noon hours on different days and that she, therefore, did wait on a small number of white persons who came up in response to these letters. Mrs. Morin stated she could not tell the ones she waited on without actually checking each individual registration card, but that she was sure she had required each one she waited on to read and interpret a portion of the Constitution in order to reregister.

[fol. 79] PLAINTIFF'S EXHIBIT No. 310

Special Agent Regis L. Kennedy of the Federal Bureau of Investigation will testify that:

On November 26, 1956, Joseph Albert Hall Slawson advised him that he had been Registrar of Voters for DeSoto Parish for fifteen years. He advised that there were approximately 770 Negro voters in the parish prior to the issuing of the challenges. He advised that there were 387 challenges issued by various individuals which comprised four white individuals and 383 colored individuals. He advised that one white woman was returned to the rolls by virtue of an affidavit signed by three persons and forty-eight Negro voters returned to the rolls after the challenges had been withdrawn by Mr. C. H. Moore. He advised that one white person was returned to the rolls by virtue of Moore withdrawing his signature.

Mr. Slawson further advised that he recalls about eight or nine challenges which were prepared which he personally determined were based upon cards which did not have errors therein, and he refused to sign these citations. He stated at this time he did not recall the identity of the eight or nine individuals to whom the challenges were not sent. He further advised that he recalls approximately three individuals returning to his office, and after checking their registration card found it to be in order, ~~and~~ he then destroyed the challenges ~~and~~ returned the individuals to the rolls. Mr. Slawson advised that he did not know whether this was correct or not, but that he felt it was. He stated he did not recall the identity of these three individuals.

[fol. 80] Mr. Slawson advised that he recalled that two letters addressed to challenged voters were returned undelivered, and the brother of one of the individuals appeared at his office, and obtained one of the challenged letters. He stated he was unable to locate the remaining challenged letter.

He was asked if all of the challenges were signed before a notary public and he advised that they were. He advised that he personally did not witness any of the signatures on the challenges. He advised that all of the signing of the challenges took place in his office.

Mr. Slawson stated that he did not contact the Attorney General of the State of Louisiana as to the propriety of this procedure of signing the challenges before a notary public, but was advised by various individuals that the signing of the affidavits before a notary would be proper.

Mr. Slawson was asked the identity of the various individuals he contacted for this advice and replied that it was various individuals including his lawyers in town and also Senator William M. Rainach, the head of the Citizens' Council for the State of Louisiana.

[fol. 81] Plaintiff's Exhibit No. 311

Special Agent Earl Cox of the Federal Bureau of Investigation will testify that:

Mrs. Estelle Wilder, Registrar of Voters, Jackson Parish, Jonesboro, Louisiana, advised him on November 8, 1956 that Louie C. Boss, President of the Jackson Parish Citizens Council, first mentioned to her purge of registration records around four or five months ago. She stated that nothing further was said about this matter until about October 1 or 2, 1956. She stated that about that date Boss and Pipes and others from the Citizens Council came in and reviewed voter registration records for a period of two or three days. She stated that as far as she knew, they reviewed all the registration cards without discrimination against the Negroes.

Mrs. Wilder stated that the registration cards are filed by Wards and Precincts with the Whites of the precincts in alphabetical order, followed by the Negroes in that precinct alphabetized separately but filed in the same file behind the Precinct number. Mrs. Wilder stated that she did not review the registration cards personally of those who were challenged. She stated that the basis used by the Citizens Council for the challenges was "incorrect and/or incomplete application for registration." She stated that any blank on the registration card not filled in might be used as the basis for a challenge.

Mrs. Wilder said that none of the challenges were mailed out during the week of October 1-6, 1956, but all challenges were mailed on October 8, 1956. She stated that the registration books were closed on October 6, 1956, and no registrations were permitted from that date until after the Presidential election on November 6, 1956.

Mrs. Wilder denied that the purpose in mailing all of the challenges after the books were closed was to prevent those challenged from re-registering or correcting their registration until after the Presidential election.

[fol. 82] Mrs. Wilder stated that she discussed with Assistant State District Attorney David T. Caldwell, Jonesboro, whether it would be proper to mail the challenges after the registration books were closed and he advised her that, if that was as soon as she could get them mailed, it would be all right to mail them after the books were closed.

Mrs. Wilder stated that a total of 966 challenges were mailed on October 8, 1956. She stated that she did not know how many Negroes or how many Whites were challenged and she denied that Negroes were discriminated against, to the best of her knowledge. She stated her records reflect that, as of August 31, 1956, there were 6572 registered voters in Jackson Parish—5450 Whites, of whom 44 were illiterate; and 1122 Negroes, of whom 18 were illiterate.

Mrs. Wilder stated that as of October 19, 1956, after the challenged voters had been deleted, there were 5701 registered voters in the parish—5534 Whites, of whom 50 were illiterate; and 167 Negroes, of whom 9 were illiterate.

Mrs. Wilder, after reference to her challenged-voter list, advised that 13 White voters were challenged, and the remaining 953 of those challenged were Negroes.

Mrs. Wilder stated that prior to 1953 it was the usual procedure for the Registrar of Voters to fill out the registration cards for nearly all persons who registered and that she also filled out many of the registration cards in 1953 and up to 1956. She stated that she also filled out a number of those registration cards still in the file that were not challenged. She stated that she had filled out the cards of many of those who were challenged. Mrs. Wilder stated that prior to the challenging of voters that began in 1956, she had not required that persons registering had to fill in all the blanks on the registration card, and that, in fact, she had not filled in some of the blanks on registration [fol. 83] cards she had filled out, as she did not consider it necessary at that time.

Mrs. Wilder stated that those who received challenges started coming in immediately after the challenges were mailed. She stated she told them that the books were closed and they could not reregister until after the election and that the only way they could avoid being striken from the registration rolls was to have three witnesses sign an affidavit that their registration cards were complete and correct and that any witness signing such an affidavit would be subject to prosecution, with a fine and jail sentence, if there were any error or incompletion on the registration card. She stated that the only official affidavit forms provided for a challenged voter is Form LR-15, which form provides that the three witnesses signing, attest to their acquaintance with the challenged voter and attest to his residence in the precinct and ward of the parish where he is to vote.

Mrs. Wilder stated that many Negroes came in with typewritten copies of Form LR-15 but she advised them that she could not accept an affidavit as set forth on type form as it related question of residence and their challenge was based upon an error or incompletion on their registration card.

Mrs. Wilder stated that of the 966 persons challenged there were 4 re-instatements: two white persons and two Negroes who were physically disabled to fill out their registration cards.

[fol. 84] IN THE UNITED STATES DISTRICT COURT

EASTERN DISTRICT OF LOUISIANA

BATON ROUGE DIVISION

Number 2548 Civil Action

UNITED STATES OF AMERICA

versus

STATE OF LOUISIANA, et als.

Transcript of Proceedings—March 4, 1963

* * * * * * *

[fol. 85] ARGUMENT ON BEHALF OF THE PLAINTIFF BY MR. DOAR

Now, in connection with that injunction, with that prayer, it is our position that we are entitled to that type of injunction against the Registrar, against the State, particularly with respect to those parishes where the Constitutional Interpretation Test has been used.

Now, the Court of Appeal, in the case of United States versus Alabama, laid down the test for determining what relief should be issued in a case of this kind and the case decided that under the 1957 Civil Rights Act that the Court has the power to issue broad relief and the question of whether or not this broad relief should be issued should be based upon two factors:

(1) Whether or not there had been a gross abuse in the past. We say there has been a gross abuse in the past as a result of the purges and interpretation tests, literally thousands of negroes have been kept off the rolls, [fol. 86] in northern Louisiana, principally, for the last four or five years.

As the Court recognized in Manning, this inevitably had an inhibiting effect on other qualified negro voters who were not willing to run the gatuntlet of the humiliation and discriminatory practices. If there was ever any case where there was gross abuse, this is the case.

The next question comes down to whether or not the State has done anything to remedy the discrimination. Now, I think the Court would concede that the State of Louisiana could not stop using the constitutional interpretation tests and then take and adopt a test that would provide that all whites should register and no negroes should register. The test is not really whether or not they stopped using the test but the test, as laid down in United States versus Alabama, was whether or not the evidence showed there was a plan or a purpose for the Board or the State to undertake voter registration without conscious racial discrimination.

Now, the State has offered, in these particular parishes, this new objective, on their face, standard written multiple choice test, sixty-six and two-thirds per cent passing grade test and I want to suggest to this Court, which I think is [fol. 87] the critical question in this case—I want to suggest in this case, that in the parishes which have used this test, have used the Constitutional Interpretation Test that, under the doctrine as ennunciated, this test cannot be used because it is not a device to end discrimination but rather it is a device to perpetuate discrimination, because statistically all of the whites are on the rolls and very few of the negroes are on the rolls, and the only people required, in many of those parishes, to take the test, the new tests, or the new objective tests, are the negroes.

Now, this principle of freezing the rolls by elevating the standards is an issue that has not been passed upon directly by any court but I say that the principles are clear from the Guinn, the Lane and the Lassiter cases and I want to just not go back to the Guinn and Lane cases, but I do want to go—

The Court (Judge Wisdom): Those are the Oklahoma cases?

Mr. Doar: That's right, they were both Oklahoma cases.

The Court (Judge Wisdom): Guinn, Lane,—what was the other?

Mr. Doar: The Lassiter, the last case is the Lassiter.

[fol. 88] Now, in Lassiter, the Court said that a literacy test, fair on its face, may be employed to perpetuate that discrimination which the Fifteenth Amendment was designed to up-root and earlier in the opinion the Court said, and here is a very interesting part of the opinion which has not been cited in the brief, at pages 49 and 50 in the Lassiter case, where the facts of that case was a negro citizen who just refused to take the test, started the action in federal court and claimed he was not required to take the literacy test. The federal court maintained the jurisdiction and instructed the negro to go to the State Court for a determination of that part of the statute; that the grandfather clause would be declared unconstitutional. She did that and it went to the Supreme Court and the Supreme Court held that the literacy test was proper; however, this is what the Supreme Court said: That the negro plaintiff argued "that that is not the end of the problem presented by the grandfather clause. There is a provision in the general statutes for permanent registration in some counties. Appellant points out that although the cut-off date in the grandfather clause was December 1, 1908, those who registered before then might still be voting." And he said, "If [fol. 89] they were allowed to vote without taking a literacy test and if appellant were denied the right to vote unless she passed it, members of the white race would receive preferential privileges of the ballot, contrary to the command of the Fifteenth Amendment. That would be analogous to the Yick Wo versus Hopkins." But the Court said, "But this issue of discrimination has not been confined to the issues presented for the State court litigation . . . so we do not reach it. But we mention it in passing so that it may be clear that nothing we say or do here will prejudice appellant in tendering that issue in the Federal proceedings."

I say the State of Louisiana, by offering Exhibit 18, saying "This is the test we use," showing there has not been complete registration, I say we are tendering this issue to the Court for decision on the provisions of 2284 that indicates that when a three-judge court is duly constituted, to pass on constitutional issues, it has the right, power and authority to pass on all issues presented to it.

Finally, there are two other cases that I want to call the Court's attention to. And the first one is the case of Ross versus Dyer, which was decided on December 28th before [fol. 90] Judge Tuttle, Judge Hutchinson and Judge Brown, and the school case out in Dallas, your Honor, that involves whether or not a District Court had the power to provide for a school desegregation plan which contemplated the brother-sister rule. We think that the argument was "Well, each person with a brother or a sister is treated the same now, and therefore, the fact that the brother-sister rule is in effect cannot be held to be discriminatory and contrary to the Fourteenth amendment." But that has the effect of sending back and resegregating children, if, say, a younger child went to school, that had the effect of perpetuating the segregated system despite the purpose of the plan to ameliorate it.

The purpose of the decree is to eradicate that unconstitutional deprivation of equal protection, not to perpetuate it.

Now, in this case where you have a hundred per cent of the white people on the rolls in Bienville Parish, for example, and none of the negroes, regardless of what the test is, you are perpetuating that preferential treatment to the white folk.

The final case that I want to cite to the Court's attention is the decision by Judge Bootle of the Middle District of Georgia, sitting as a member of the panel on the Fifth Circuit in a case which came up from Mississippi which [fol. 91] this court again—this is the Dogan case which was decided on January 26th, in which the Court again recognized the theory of the Guinn and Lane Cases in that statutes and tests are unconstitutional if the result is to recreate or perpetuate the very conditions which the Amendment was intended to destroy. Now, in this case, this was the simple proposition that negroes went to pay the poll tax and whoever paid for the first time the poll tax must see the sheriff. Not a very difficult provision for paying the poll tax, only onerous, but it was not any more onerous than this test, and yet the court held that they could not make that provision in state law. This was not an undue burden on Federal-State relations. They did not make them start over, everybody do it. They made the first-time poll tax payers do it. The first time poll tax payers, because of the prior discrimination, were all negroes.

And so I suggest to the Court that this is the question and one of the really significant important questions that this Court has to decide here is whether or not in those twenty-one counties where the interpretation test was used to discriminate, whether or not where most of the white [fol. 92] people were on the roll now and few of negroes, whether or not this test is, instead of being a good faith effort by the State to eliminate, and not undertake, as the Court in United States versus Alabama, that voter registration case, without conscious racial discrimination, or whether or not it was a scheme to perpetuate that discrimination which has taken place in the past.

The Court (Judge Wisdom): Is it your idea that the injunction would be applicable only to those parishes?

Mr. Doar: Yes sir, I think it would.

I would like to ask leave, in connection with Mr. Kron's brief, to submit to the Court prepared findings and conclusions and a proposed decree if that would be permissible to do so. I would like to do it sufficiently in advance of Mr. Kron's deadline, so that he would have an opportunity to reply to it. Perhaps we could do that in, say, fifteen days and then he will have an opportunity to comment on them, too.

The Court (Judge Wisdom): That will be agreeable with the Court.

[fol. 93] Mr. Doar: Thank you, your Honor.

COLLOQUY BETWEEN THE COURT AND COUNSEL FOR THE DEFENDANT, MR. KRON

The Court (Judge Wisdom): We realize that you have a great burden because of the mass of material that has been produced here today and which you have not really had a chance to absorb and analyze, so I hope you will understand that we do realize what your problem is and if you find, after going into this, that you need oral argument later, we will consider that. We hope we will not have to come back here again.

Mr. Kron: It may or may not be, if your Honors please, that we would like to make any more argument at a later time, however, I can see already, the comprehensive nature, and actually an enlargement of the request for the type of judgment that has been rendered or to be rendered, that it is almost impossible as of now to make a concise, detailed intelligent approach to an argument in this case.

After all, our fundamental argument is that the constitutionality of this provision is presumed and it is, therefore, up to the plaintiff to show otherwise and then resolves itself in the main to a question of the development [fol. 94] of a record based on the facts which existed prior to the adoption of the constitutional provision, which is to be declared invalid on its face and, secondly, the facts as are presented today as to its use over the years in a discriminatory manner. The result, then, if I might refer your Honors to the end statement in Plaintiff's brief, that the validity of the interpretation test can be measured not by the pleadings, but by the detailed evidence of the discriminatory setting.

With that in mind, I would like, if the Court please to beg to be excused from any further argument at this time so that we can thoroughly study the situation. We can study the issue presented by these facts and intelligently come back with our complete argument in one concise package.

Again I say that if we can find that our written brief in our opinion will satisfactorily cover it, of course, we will desist from asking for oral argument.

I might point out to this Court, however, that the very issue that Mr. Doar raised in the final moments of his argument have been raised in two separate lawsuits recently filed in Red River Parish, a permanent registration parish, and Webster, a periodic registration parish. The very issue as to whether or not this new test under the provisions of [fol. 95] the '62 Act should be applied because of that discriminatory situation that he raised; so that, to me, becomes extremely important to the matter of the controversy in this case and, at the moment, I am not prepared legally to discuss it.

The Court (Judge Wisdom): Isn't it a fact that two other suits have been filed?

Mr. Kron: I don't know about the fact that suits have been filed, Judge, but what I am saying, that this is the first time this issue has been raised in this matter. As Mr. Doar pointed out, it is a new issue. Now, we are researching the question now, preparatory to filing answer in those two suits.

The Court (Judge Christenberry): You filed no brief?

Mr. Kron: No sir, I had prepared a brief but then on Wednesday and again on Friday, after conferring with these men, with counsel, and also you are involved in the trial of those cases, so we visited with Judge Wisdom. I missed Judge West. He and I were between Baton Rouge and New Orleans conversely.

We decided, after talking it over, that we would like, if [fol. 96] possible, to withhold what brief we had and file our brief in one complete document. If I can get that permission and the time, I would like to do it that way.

The Court (Judge Wisdom): Mr. Kron, I have consulted with the other members of the Court and the Court will accede to your suggestion. You are to get your brief in within thirty days.

Mr. Kron: Yes sir.

The Court (Judge Wisdom): While there is this great mass of material, I am sure that you are very familiar with the basic principles involved and with most of the facts as you have been in so many of these cases.

Mr. Doar, you will sketch the proposed findings of fact.

Mr. Doar: We will get that in to your Honors.

* * * * * * *

[fol. 96a] Reporter's Certificate to foregoing transcript (omitted in printing).

[fol. 97] [File endorsement omitted]

IN THE UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF LOUISIANA

NEW ORLEANS DIVISION

Civil Action No. 2548

[Title omitted]

NOTICE OF MOTION AND MOTION FOR LEAVE TO REOPEN CASE TO OFFER ADDITIONAL EVIDENCE BY WAY OF DEPOSITIONS —Filed April 10, 1963

To: Each Party, and to the Attorney of Record of each Party Herein.

Please Take Notice that on Wednesday, April 17, 1963 at 9:30 a.m. or as soon thereafter as counsel may be heard at 400 Royal Street in the Courtroom of the United States District Court for the Eastern District of Louisiana, Plaintiff will move the Court for leave to reopen the case [fol. 98] for the purpose of offering additional evidence by way of one or more depositions, that is, the deposition of the Registrar of Voters of Webster Parish and/or the depositions of about ten Negro citizens of Webster Parish. This motion will be based upon the attached affidavit of Louis M. Kauder and upon all of the pleadings, documents and evidence in the record in this case.

David L. Norman, Attorney, Department of Justice.

ORDER—April 11, 1963

Plaintiffs' motion to re-open case for purposes herein set forth is Granted.

New Orleans, La., April 11, 1963.

John Minor Wisdom, Judge, U. S. Ct. of Appeals; Herbert W. Christenberry, Judge, U. S. Dist. Court; E. Gordon West, Judge, U. S. Dist. Court.

[fol. 98a] Certificate of Service (omitted in printing).

[fol. 99]

AFFIDAVIT

City of Washington,
District of Columbia, ss

On this 8th day of April, 1963, Louis M. Kauder, being first duly sworn, says as follows:

My name is Louis M. Kauder. I live at 1111 Army-Navy Drive, Arlington, Virginia. I am a trial attorney in the Civil Rights Division of the United States Department of Justice.

On Wednesday, March 20, 1963, Alexander Ross, also a trial attorney for the Department of Justice, and myself were in Minden, Louisiana, the parish seat of Webster Parish, in connection with a lawsuit that had been filed by the United States of America against the State of Louisiana and Winnice C. Clement, Registrar of Voters for Webster Parish. This lawsuit, filed in the United States District Court for the Western District of Louisiana on February 18, 1963, charges the defendants with acts of racial discrimination against Negro applicants for voter registration in Webster Parish. Our assignment was to speak to prospective witnesses who had made application for registration to vote.

We personally interviewed 13 persons who informed us that they made applications for voter registration in Webster Parish within the previous month and in the course [fol. 100] of making application had to read a portion of the Louisiana Constitution and explain what they read to the registrar. The earliest date on which any one of these persons was required to interpret the Constitution was February 21, 1963. The latest date was March 15, 1963. Applicants who were at the registrar's office on March 15 reported that they were told by the registrar that on that date the registration books were being closed for a thirty-day period.

This affidavit is made in support of a motion to reopen the record in the case of *United States* v. *Louisiana, et al.* (C.A. No. 2548), pending in the United States District Court for the Eastern District of Louisiana.

Louis M. Kauder

Sworn to and subscribed before me this 8th day of April, 1963.

(Seal)

Linda K. Stores, Notary Public, My commission expires 8-31-63.

[fol. 101]

IN THE UNITED STATES DISTRICT COURT FOR THE
NEW ORLEANS DIVISION

BATON ROUGE DIVISION

Civil Action No. 2548

[Title omitted]

STATEMENT IN SUPPORT OF PLAINTIFF'S MOTION FOR LEAVE TO REOPEN CASE TO OFFER ADDITIONAL EVIDENCE BY WAY OF DEPOSITIONS

The United States filed this action against the State of Louisiana and the State Board of Registration on December 27, 1961, seeking a judgment declaring Louisiana's constitutional interpretation test for voter registration invalid and enjoining its use.

In August 1962 the defendant Board of Registration, pursuant to legislative directive, promulgated a new, multiple-choice written test for voter registration and issued instructions to the registrars requiring that they use the new test.

[fol. 102] On December 20, 1962, this Court was informed at a pre-trial conference by counsel for the defendants that the interpretation test was no longer in use, and that the State would take the position at trial that the disuse of the old test as a voter qualification in Louisiana makes unnecessary a decision in this lawsuit. At the trial of the action on March 4, 1963, counsel for the defendants reserved argument and presented no evidence, except for the stipulated testimony of Hugh Cutrer, Director and Ex Officio Secretary of the State Board of Registration, to the effect that no registrar in the State was presently using the interpretation test. Counsel for the defense was given thirty days, or until April 4, to submit his brief, the Court withholding decision as to whether further oral argument will be heard until that time.

The question of what specific declaratory or injunctive relief the plaintiff is entitled to is still to be decided by the Court. The purpose of this motion is to reopen the record in the case to permit the taking of depositions in Webster Parish (which is in the Western District of Louisiana) in order that Court might have the full story of the continuing use of the interpretation test before a decision is reached in this case. If the test is still in use, the Court is entitled to have proof of that fact before it decides the case.

[fol. 103] The motion and attached affidavit set forth the circumstances under which it came to the plaintiff's attention that the interpretation test was still in use. A motion to reopen a non-jury case while the Court still has the case under advisement should be granted if substantial justice so requires. *Haugen* v. *U. S.*, 153 F. 2d 850 (C.A. 9, 1946); *Bowles* v. *Six States Coal Corp.*, 64 F. Supp. 651 (W.D. Pa. 1946); see generally 6 Moore, Federal Practice § 59.04[13] (2d ed. 1953).

Finally, it should be noted that, although this case is to be decided by a three-judge court convened in accordance with 28 U.S.C. 2281, under 28 U.S.C. 2284(5) "[A]ny one of the three judges of the court may perform all functions, conduct all proceedings except the trial, and enter all orders required or permitted by the rules of civil procedure." Under the statute, this Court, comprised of a single judge, is fully empowered to enter an order that the record in this case be reopened for the limited purpose of taking and submitting depositions relating to the continued use of the interpretation test in Webster Parish.

David L. Norman, Attorney, Department of Justice.

[fol. 104] [File endorsement omitted]

IN THE UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF LOUISIANA

BATON ROUGE DIVISION

Civil Action No. 2548

UNITED STATES OF AMERICA, Complainants,

v.

STATE OF LOUISIANA: JIMMIE H. DAVIS, C. C. AYCOCK, J. THOMAS JEWEL, as Members of the Board of Registration of the State of Louisiana, and HUGH E. CUTRER, JR., Director and Ex Officio Secretary of the Board of Registration of the State of Louisiana, Defendants.

NOTICE OF APPEAL TO THE SUPREME COURT OF THE UNITED STATES—Filed December 27, 1963

I. Notice is hereby given that the State of Louisiana: Jimmie H. Davis, C. C. Aycock, J. Thomas Jewel, as members of the Board of Registration of the State of Louisiana, and Hugh E. Cutrer, Jr., Director and Ex Officio Secretary of the Board of Registration of the State of Louisiana, the defendants above named, hereby appeal to the Supreme Court of the United States from the final order declaring a portion of Article 8, Section 1(d) of the Constitution of Louisiana (the interpretation test) unconstitutional on November 27, 1963.

This appeal is taken pursuant to 28 U.S.C. Section 1253.

II. The Clerk will please prepare a transcript of record in this cause for the transmission to the Clerk of the Supreme Court and include in said transcript the entire record of the proceedings, including this Notice of Appeal.

III. The following question is presented by this appeal:

1. Whether Article 8, Section 1 of the Louisiana Constitution and the laws of Louisiana, insofar as they pertain [fol. 105] to the interpretation test, are invalid and in violation of the Fourteenth and Fifteenth Amendments to the Constitution of the United States.

Jack P. F. Gremillion, Attorney General of Louisiana, Carroll Buck, First Assistant Attorney General, Harry J. Kron, Assistant Attorney General, Thomas W. McFerrin, Special Counsel.

[fol. 105a] Proof of service (omitted in printing).

[fol. 106] [File endorsement omitted]

In the United States District Court for the Eastern District of Louisiana

Baton Rouge Division

Civil Action No. 2548

United States of America, Plaintiff,

v.

State of Louisiana; Jimmie H. Davis, C. C. Aycock, J. Thomas Jewel, as members of the Board of Registration of the State of Louisiana, and Hugh E. Cutrer, Jr., Director and Ex Officio Secretary of the Board of Registration of the State of Louisiana, Defendants.

Decree—January 28, 1964

Pursuant to the Findings of Fact, Conclusions of Law and Memorandum Opinion entered in this case:

It is Adjudged and Decreed that the provisions of Article 8, Section 1 of the Louisiana Constitution and the provisions of the statutes of Louisiana in so far as they provide for or relate to the requirement that electors must be able to understand or interpret any portion of the Constitution of the United States or the Constitution of the State of Louisiana are unconstitutional.

[fol. 107] It is Ordered that the defendants, including all parish registrars, their agents and successors are enjoined from enforcing or giving any further effect to the requirement of Article 8, Section 1 of the Louisiana Constitution and the statutes implementing Article 8, Section 1 in so far as they pertain to the understanding or interpretation test as a prerequisite to registration to vote.

It is Ordered that in the following twenty-one parishes: Bienville, Claiborne, DeSoto, East Carroll, East Feliciana, Franklin, Jackson, LaSalle, Lincoln, Morehouse, Ouachita,

Plaquemines, Rapides, Red River, Richland, St. Helena, Union, Webster, West Carroll, West Feliciana, and Winn, the defendants, their agents and successors, including the following registrars of voters

Parish	Registrar	Office Address
Bienville	Mrs. Pauline A. Culpepper	Arcadia, La.
Claiborne	Mrs. Louise Linton	Homer, La.
DeSoto	Sidney Wells Platt	Mansfield, La.
East Carroll	Cecil E. Manning	Lake Providence, La.
East Feliciana	Henry Earl Palmer	Clinton, La.
Franklin	Mrs. W. A. Hatton	Winnsboro, La.
Jackson	Mrs. Estelle Wilder	Jonesboro, La.
LaSalle	John S. Allen	Jena, La.
Lincoln	Mrs. Wanda C. Gibson	Ruston, La.
Morehouse	Margaret Larche	Bastrop, La.
Ouachita	Mae Lucky	Monroe, La.
Plaquemines	Mary Ethel Fox	Pointe-a-la-Hache, La.
Rapides	Cleighton L. Bushnell	Alexandria, La.
Red River	J. Walton Crawford	Coushatta, La.
Richland	Mrs. Lula C. Cheek	Rayville, La.
St. Helena	Quitman Crouch	Greensburg, La.
Union	Woodrow W. Farrar	Farmerville, La.
Webster	Mrs. Winnice P. Clement	Minden, La.
West Carroll	Mrs. Ora Cameron	Oak Grove, La.
West Feliciana	Fletcher Harvey	St. Francisville, La.
Winn	Charles H. Crain	Winnfield, La.

[fol. 108] are Enjoined from:

requiring, absent a general re-registration of all voters in the parish, any applicant for registration of voting age and possessed of the residence requirements as of August 3, 1962 to take the multiple-choice "citizenship" test as a prerequisite to registration to vote.

It is further Ordered that in the said twenty-one parishes the defendants, the registrars of voters in the said twenty-one parishes, their agents and successors, file with the Clerk of this Court on or before the 15th day of the second month and each succeeding month after the date of this decree a report covering registration during the preceding month, each of said reports to include the following:

(1) The name, address, age, race, and length of residence in the parish of each person who sought to apply for registration during the preceding reporting period;

(2) The action taken by each registrar with respect to each such applicant, that is, whether the applicant was accepted for registration or denied registration. The report shall include the certificate number of each accepted applicant and the specific reason or reasons for rejection of each rejected applicant;

[fol. 109] (3) The total number of persons, shown by race, registered to vote in the parish as of the end of the preceding month.

It is further Ordered that in the said twenty-one parishes, the defendants, the registrars of voters in the said twenty-one parishes, their agents and successors, make available to attorneys and agents of the United States, at any or all reasonable times, for inspection and photographing all documents, records and papers relating to the registration of voters and to voting.

This Court retains jurisdiction of this action for the purpose of entering such additional orders as justice may require, including orders of modification upon proof by the defendants that in one or more of the afore-said twenty-one parishes the discriminatory effects of the use of the interpretation test have ceased to exist; or upon proof by the Plaintiff that additional parishes not embraced in this decree have used the understanding or interpretation test to discriminate against Negroes.

The costs of this action are hereby taxed against the defendants.

1964 CHB

Done this 28th day of January, ~~1963~~.

John Minor Wisdom, Circuit Judge, Herbert W. Christenberry, District Judge.

I respectfully DISSENT, for the reasons previously filed herein. I furthermore DISSENT from the order herein requiring the registrars to file monthly reports with the Clerk of Court on the ground that such an order is wholly unwarranted, unauthorized, and constitutes what I consider to be an unwarranted extra-judicial function being performed by this Court. Baton Rouge, La., January 29, 1964.

E. Gordon West, District Judge.

[fol. 110] [File endorsement omitted]

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF LOUISIANA

BATON ROUGE DIVISION

Civil Action No. 2548

UNITED STATES OF AMERICA, Plaintiff,

vs.

STATE OF LOUISIANA, et al., Defendants.

Findings of Fact and Conclusions of Law—
Filed February 3, 1964

This matter came on for trial on a prior day, on the merits, on the stipulations of the parties, depositions and exhibits, and the Court after hearing argument of counsel, took time to consider. After due consideration, the Court being fully advised in the premises, now makes the following findings of fact and conclusions of law:

FINDINGS OF FACT

1. Defendants Jimmie H. Davis, C. C. Aycock and J. Thomas Jewel are the members of the Board of Registration of the State of Louisiana by virtue of their official positions as Governor, Lieutenant Governor and Speaker of the House of Representatives of the State of Louisiana, respectively. Each of these defendants has an office in Baton Rouge, Louisiana, Defendant Hugh E. Cutrer, Jr. is the Director and Ex Officio Secretary of the Board of Registration and in that capacity is an agent of the defendant State. His office is in Baton Rouge, Louisiana. The Board of Registration is an agency of the defendant State of Louisiana. The office of the Board is in Baton Rouge, Louisiana.

2. Under the Constitution and laws of Louisiana, the Board of Registration is required to prescribe by general rules and regulations the method of the voter registration laws and procedures and the character and forms of records and documents used in the registration process. The Board [fol. 111] is authorized to remove, at will, any registrar of voters, in the State of Louisiana. It is the duty of the defendant Director, Hugh E. Cutrer, Jr., who was appointed by the Board, to administer the rules and regulations of the Board, and to perform such other duties as may be directed by the Board in connection with the powers of the Board and the promotion of registration of voters of the State.

3. Under Louisiana law, registration is, and has been since 1864, a prerequisite to voting in any election.

4. Each parish in Louisiana has a registrar of voters who is an appointed official and an agent of the defendant State. All of the registrars in Louisiana are white citizens. Under Louisiana law the registrars of voters determine whether each applicant for registration meets the qualifications for registration to vote.

5. Louisiana law provides for periodic registration for all parishes that do not contain a municipal corporation of one hundred thousand population, but gives each parish the

option of adopting permanent registration. Parishes which contain a municipal corporation of 100,000 population must have permanent registration. Under the periodic system all voters in the parish must re-register every four years. The present four-year period commenced January 1, 1961. Under the permanent registration system a voter is not required to re-register unless his name is removed from the voter rolls for his failure to vote in four consecutive years (two years in Orleans Parish) or for any grounds set forth in the laws. At the time of the trial, 42 of the 64 Louisiana [fol. 112] parishes were under the permanent registration system.

6. The understanding and interpretation test as a voter qualification in Louisiana was adopted in 1921 for the purpose of creating a device to discriminate against Negroes.

7. The discriminatory purpose of the understanding and interpretation test was reaffirmed in the 1950's when state officials urged that the test be used to disfranchise Negroes. Until that time the test was not needed and was not used.

8. The interpretation test has consistently been used to discriminate against Negroes.

8.1 In twenty-one parishes where the interpretation test has been used only 8.6 percent of the adult Negroes were registered to vote as of December 31, 1962, whereas 66.1 percent of the adult white persons were then registered to vote. Before the interpretation test was introduced in these parishes, 25,361 Negroes were registered to vote. By August 31, 1963 only 10,351 Negroes were registered. The registration of white persons was not discernibly affected.

8.2 Negroes highly qualified by literacy standards have been denied registration for their failure to interpret a section of the Constitution to the satisfaction of the registrar in the following parishes: Bienville, DeSoto, East Feliciana, Jackson, Morehouse, Ouachita, Plaquemines, Richland, Union and Webster. In these [fol. 113] same parishes there are white voters who have supposedly passed the interpretation test but whose application cards indicate that they are barely literate.

8.3 The commencement of the use of the interpretation test coupled with the wholesale purging of Negro voters alone effected gross discrimination. Citizens Council members challenged the registration of large numbers of Negro voters on the ground that they had not satisfied all the requirements of the Louisiana voter qualification laws at the time they registered in that they had failed to take the interpretation test or had failed to complete the application form without errors or omissions. In fact, the challenged Negroes had satisfied all the requirements imposed by the registrar *at the time* they registered. White voters were not purged although their registrations suffered from the same alleged deficiencies as did those of the Negroes who were purged. In the parishes where this occurred Negro registration during a four-year period declined by about 10,000 while the white registration increased by about 2,350. In most parishes where there were purges, Negroes were unable to gain reinstatement in the manner prescribed by Louisiana law, therefore, they were required to re-register and were subjected to the interpretation test. The white voters, not having been challenged, in effect were exempted from the test. The discrimination brought about by the purges and the use of the interpretation test was frozen into the system in parishes such as Bienville, DeSoto, Jackson, Ouachita, and Rapides, which have permanent registration. In [fol. 114] all parishes where the understanding and interpretation test was used, it was a significant deterrent to Negro registration.

9. The understanding and interpretation test vests the registrar with uncontrolled discretion to determine subjectively which persons are qualified to vote.

10. The understanding and interpretation test bears no reasonable relationship to literacy or to any qualification for voting within the legitimate interest of the state.

11. The necessary effect of the use of the interpretation test has been to discriminate against Negroes and has reduced drastically the percentage of Negro voters in the parishes where the test has been used.

12. In the twenty-one parishes where the understanding and interpretation test has been used the new "citizenship" test inaugurated in August 1962 makes registration more difficult for all future applicants than it was for white persons prior to the commencement of the use of the test. The use of this new test inevitably discriminates against Negroes since they constitute the unregistered class.

13. At no time have the defendants ordered a reregistration in those parishes where the interpretation test has been used or in any parish since the introduction of the "citizenship" test, nor have the defendants taken any other steps to correct the discriminatory effect of the use of the interpretation test.

[fol. 115]

Conclusions of Law

1. This Court has jurisdiction over this action under 42 U. S. C. 1971(d), 28 U. S. C. 1345 and 28 U. S. C. 2281.

2. This action is a proper action to be heard by a district court of three judges.

3. The Attorney General of the United States is authorized to institute this action under 42 U. S. C. 1971(c).

4. The State of Louisiana is properly joined as a defendant.

5. The defendant members of the Board of Registration of the State of Louisiana, and the defendant Hugh E. Cutrer, Jr., as Director and Ex Officio Secretary of said Board, are properly made defendants in this action.

6. Each of the sixty-four registrars of voters in the State of Louisiana is an agent of the defendants.

7. The existence and enforcement of the provisions of Article 8, Section 1 of the Constitution of Louisiana, and of the statutes implementing Article 8, Section 1 of the Con-

stitution of Louisiana in so far as they relate to the understanding and interpretation test as a prerequisite to voting, is in violation of the Fourteenth and Fifteenth Amendments to the Constitution of the United States.

8. In Parishes where the understanding and interpretation test has been used and a high percentage of the adult white persons but a low percentage of the adult Negroes have become registered to vote as a result of one or more barriers to Negro registrations, the adoption and use of the so-called "citizenship" test absent a re-registration of all voters violates the Fifteenth Amendment and 42 U. S. C. [fol. 116] 1971(a). No requirement can be imposed which, by reason of previous history of registration, has the inevitable effect of exempting most of the white persons from it and subjecting most of the Negroes to it. A state may not seal the effects of discrimination into the voting system by adopting exclusionary or burdensome registration requirements.

9. Full and adequate relief in this case requires not only a declaration of the invalidity of the understanding and interpretation test and an injunction restraining its enforcement but an order restraining the defendants and the registrars in the twenty-one parishes where the understanding and interpretation test has been used from enforcing as against future applicants for registration the so-called "citizenship" test in the absence of a complete re-registration of all voters or some other action which would fully correct the discriminatory effects of the interpretation test.

New Orleans, Louisiana, January 31, 1964.

John Minor Wisdom, United States Circuit Judge;
Herbert W. Christenberry, United States District Judge.

For the reasons previously assigned by me, and filed in the record hereof, I disagree with the findings and conclusions and therefore dissent therefrom.

Baton Rouge, La., Feb. 10, 1964.

E. Gordon West
United States District Judge

[fol. 117] **[File endorsement omitted]**

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF LOUISIANA

BATON ROUGE DIVISION

Civil Action Number 2548

UNITED STATES OF AMERICA, Complainants,

v.

STATE OF LOUISIANA: JIMMIE H. DAVIS, C. C. AYCOCK, J. THOMAS JEWEL, as members of the Board of Registration of the State of Louisiana, and HUGH E. CUTRER, JR., Director and Ex Officio Secretary of the Board of Registration of the State of Louisiana, Defendants.

MOTION FOR ORDER TO DISMISS ORIGINAL APPEAL—Filed March 5, 1964

Defendants move that the Notice of Appeal to the Supreme Court of the United States, filed in this cause on December 27, 1963, be dismissed for the following reasons:

1. That the appeal was untimely filed in that it was noticed and filed before the final decree in this cause, said final decree having subsequently been issued on January 31, 1964.

2. That since said final decree in this cause on January 31, 1964, a proper and timely Notice of Appeal pursuant to 28 U.S.C. Section 1253 has been filed.

Wherefore, movers pray that this Court order the dismissal of the Notice of Appeal filed in this matter on December 27, 1963 as having been untimely filed, reserving unto defendants all of their rights in the premises.

Jack P. F. Gremillion, Attorney General of Louisiana; Carroll Buck, First Assistant Attorney General; Harry J. Kron, Jr., Assistant Attorney General; Thomas W. McFerrin, Special Counsel.

[fol. 117a] Proof of Service (omitted in printing).

[fol. 118]

IN THE UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF LOUISIANA

BATON ROUGE DIVISION

Civil Action Number 2548

UNITED STATES OF AMERICA, Complainants,

v.

STATE OF LOUISIANA: JIMMIE H. DAVIS, C. C. AYCOCK, J. THOMAS JEWEL, as members of the Board of Registration of the State of Louisiana, and HUGH E. CUTRER, JR., Director and Ex Officio Secretary of the Board of Registration of the State of Louisiana, Defendants.

ORDER DISMISSING NOTICE OF APPEAL FILED BEFORE ENTRY OF FINAL JUDGMENT

Pursuant to foregoing motion, it is ordered that the notice of appeal and appeal filed in this cause by the defendants, State of Louisiana, et al., on December 27, 1963, be and the same is hereby dismissed having been untimely filed prior to the entry of a final judgment in said cause.

Be it further ordered that all of the other rights of defendants in this matter are hereby preserved.

E. Gordon West, U. S. District Judge.

[fol. 119] [File endorsement omitted]

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF LOUISIANA

BATON ROUGE DIVISION

Civil Action Number 2548

UNITED STATES OF AMERICA, Complainants,

v.

STATE OF LOUISIANA: JIMMIE H. DAVIS, C. C. AYCOCK, J. THOMAS JEWEL, as members of the Board of Registration of the State of Louisiana, and HUGH E. CUTRER, JR., Director and Ex Officio Secretary of the Board of Registration of the State of Louisiana, Defendants.

NOTICE OF APPEAL TO THE SUPREME COURT OF THE UNITED STATES—Filed March 5, 1964

I. Notice is hereby given that the State of Louisiana: Jimmie H. Davis, C. C. Aycock, J. Thomas Jewel, as members of the Board of Registration of the State of Louisiana, and Hugh E. Cutrer, Jr., Director and Ex Officio Secretary of the Board of Registration of the State of Louisiana, the defendants above named, hereby appeal to the Supreme Court of the United States from the final order declaring a portion of Article 8, Section 1(d) of the Constitution of Louisiana (the interpretation test) unconstitutional on January 31, 1964.

This appeal is taken pursuant to 28 U.S.C. Section 1253.

II. The Clerk will please prepare a transcript of record in this cause for the transmission to the Clerk of the Supreme Court and include in said transcript the entire record of the proceedings, including this Notice of Appeal.

III. The following question is presented by this appeal:

1. Whether Article 8, Section 1 of the Louisiana Constitution and the laws of Louisiana, insofar as they pertain

[fol. 120] to the interpretation test, are invalid and in violation of the Fourteenth and Fifteenth Amendments to the Constitution of the United States.

Jack P. F. Gremillion, Attorney General of Louisiana; Carroll Buck, First Assistant Attorney General; Harry J. Kron, Jr., Assistant Attorney General; Thomas W. McFerrin, Special Counsel.

[fol. 121] [File endorsement omitted]

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF LOUISIANA

BATON ROUGE DIVISION

Civil Action No. 2548

UNITED STATES OF AMERICA, Plaintiff,

vs.

STATE OF LOUISIANA: JIMMIE H. DAVIS, C. C. AYCOCK, J. THOMAS JEWEL, as members of the Board of Registration of the State of Louisiana, and HUGH E. CUTRER, JR., Director and Ex Officio Secretary of the Board of Registration of the State of Louisiana, Defendants.

ORDER RECALLING MEMORANDUM DECISION—Filed March 18, 1964

The Memorandum Decision of the Court filed November 27, 1963, is herewith recalled. In its stead the printed opinion attached hereto is filed as the opinion of the Court.

John Minor Wisdom, United States Circuit Judge; Herbert W. Christenberry, United States District Judge.

[fol. 122] [File endorsement omitted]

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF LOUISIANA

BATON ROUGE DIVISION

(See Opposite) ☞

[fol. 123]

UNITED STATES of America,
Plaintiff,
v.
STATE OF LOUISIANA, Jimmie H. Davis, C. C. Aycock, J. Thomas Jewel, as Members of the Board of Registration of the State of Louisiana, and Hugh E. Cutrer, Jr., Director and ex officio Secretary of the Board of Registration of the State of Louisiana, Defendants.
Civ. A. No. 2548.

Action under Civil Rights Act by United States against State of Louisiana and certain officials to invalidate state constitutional requirement that applicant for voting registration be able to understand and give a reasonable interpretation of any section of the state or federal Constitution. A three-judge District Court, Wisdom, Circuit Judge, held that the interpretation test was unconstitutional because of its unlawful purpose, operation, and inescapably discriminatory effect, and its use would be enjoined as well as the use of new citizenship test in certain parishes as disclosed in opinion.

Decree accordingly.

West, District Judge, dissented.

1. States 🔑203

When official of the state or of a subdivision of state is found to have discriminated against United States citizens in violation of Civil Rights Act, the act or practice is deemed to be that of state which may be joined as a party defendant. 42 U.S.C.A. § 1971(a, c).

2. States 🔑203

State was real party at interest and a proper party defendant in action by the United States under Civil Rights Act to invalidate state constitutional requirements for voter registration. 42 U.S.C.A. § 1971(a, c); U.S.C.A.Const. Amend. 11.

3. Courts 🔑303(1)

Eleventh Amendment is not applicable to action brought by United States in its sovereign capacity. U.S.C.A.Const. Amend. 11.

4. Courts 🔑101

Since suit by United States challenged validity of provisions of state Constitution requiring tests for registration of voters presented substantial constitutional questions, it was a proper case to be heard by three judge court. 42 U.S.C.A. § 1971(a); 28 U.S.C.A. § 2281; LSA–Const. art. 1, § 4; art. 7, § 2.

5. Elections 🔑18

States, under federal Constitution, are free to establish voting qualifications but only if the qualifications do not transgress the federal Constitution. U.S.C.A. Const. art. 1, § 2; Amend. 17.

6. Elections 🔑12

Fifteenth Amendment imposes on courts unshirkable duty of inquiring into legislative purpose and striking down a fair-seeming law that, "on account of race", is in fact a discriminatory device to deprive Negroes of their vote. U.S. C.A.Const. Amend. 15.

7. Elections 🔑11

Fourteenth Amendment prohibits discriminatory voting qualifications primarily by "equal protection" clause. U.S. C.A.Const. Amend. 14.

8. Elections 🔑19

Under federal constitutional provision empowering Congress to make or alter times, places and manner of holding elections for Senators and Representatives, congressional authority extends to registration. U.S.C.A.Const. art. 1, § 4.

9. Elections 🔑4
United States 🔑22

The "appropriate legislation" clauses of the Fourteenth and Fifteenth Amendments are as broad as the constitutional provision giving Congress authority to enact "necessary and proper" legislation.

U.S.C.A.Const. art. 1, § 8, cl. 18; Amend. 14, § 5; Amend. 15, § 2.

10. Elections 🔑4, 19

Totality of implied powers under Supremacy Clause, the "necessary and proper" clause and the "appropriate legislation" clauses of the federal Constitution and amendments thereto grant Congress full authority to enact Civil Rights Act or other appropriate legislation to regulate election, including registration, and to protect integrity of electoral process. U.S.C.A.Const. art. 1, § 4; art. 1, § 8, cl. 18; art. 6; Amend. 14, § 5; Amend. 15, § 2.

11. Statutes 🔑221

Rule stating that when meaning of language is plain court is not to resort to evidence in order to raise doubts does not preclude consideration of persuasive evidence if it exists.

12. Statutes 🔑174

One begins with words of statute to ascertain its meaning, but one does not end with them.

13. Constitutional Law 🔑47

On the one hand, court cannot carry out judicial function of giving effect to legislative intent, or, on the other hand, invalidate law under reasonable construction fair to framers, without first determining purpose of law.

14. Constitutional Law 🔑211

Though law itself may be nondiscriminatory on its face and impartial in appearance, if it is applied and administered by public authority with evil eye and unequal hand, so as practically to make unjust and illegal discriminations between persons of similar circumstances, material to their rights, the denial of equal justice is still within prohibition of federal Constitution.

15. Elections 🔑12

Federal Constitution nullifies sophisticated as well as simple-minded modes of discrimination, and hits onerous procedural requirements which effectively handicap exercise of franchise by colored race although abstract right to vote may remain unrestricted as to race.

16. Evidence 🔑324(1)

Historical facts of general and public notoriety may be proved by reputation, and that reputation may be established by historical works of known character and accuracy.

17. Evidence 🔑177

In action under Civil Rights Act challenging Louisiana constitutional provision, certified copies of newspaper articles of period of Louisiana constitutional convention were admissible to show purpose, as they were the only contemporaneous reports of convention available. LSA-Const. art. 8, § 1(d); 42 U.S.C.A. § 1971 (a).

18. Elections 🔑12

Interpretation test of Louisiana Constitution requiring that voter be able to understand and give reasonable interpretation of any section of either federal or state Constitution has same purpose as outlawed grandfather clause and is capable of producing the same effective disfranchisement of Negroes. 42 U.S.C.A. § 1971(a); LSA-Const. art. 8, § 1(d).

19. Elections 🔑12

Evidence in action under Civil Rights Act challenging validity of Louisiana constitutional requirement that voters be able to understand and give reasonable interpretation of any section of state or federal Constitution disclosed that registrars discriminated against Negroes as a matter of state policy in pattern based on regular, consistent, predictable unequal application of the test. LSA-R.S.Const. art. 8, § 1(d); 42 U.S.C.A. § 1971(a); U.S.C.A.Const. Amends. 14, 15

20. Elections 🔑18

Literacy test bears reasonable relation to governmental objective and, if it does not perpetuate past discrimination, is a permissible requirement for voting qualification.

21. Elections 🔑18

Constitutional interpretation test required by Louisiana Constitution for voter qualification bears no relationship to reasonable voting requirements as it is administered and as it was designed to be administered. LSA-Const. art. 8, § 1 (d).

22. Constitutional Law ⇐211, 274
Elections ⇐19

When state Constitution gives law power to registrar to grant, or to withhold registration as he sees fit, Constitution violates both due process and equal protection clauses of Fourteenth Amendment. U.S.C.A.Const. Amend. 14.

23. Constitutional Law ⇐211, 274
Elections ⇐18

Louisiana constitutional provision requiring, as a voter qualification, that voter be able to understand and interpret any section of federal or state Constitution makes each registrar sole judge, without any guidance of whether to apply test or not and whether applicant is qualified, and violates both the due process and equal protection clauses of the Fourteenth Amendment. LSA-R.S.Const. art. 8, § 1(d); U.S.C.A.Const. Amend. 14.

24. Elections ⇐12

Obligation of state to abolish existing system of racial discrimination in voting registration was not met by simply applying new and higher standards to all future applicants, since new tests discriminate against Negroes by subjecting them to standards to which registered applicants, most of whom were white, were not subjected. U.S.C.A.Const. Amend. 14.

25. Courts ⇐262.4(11)

In addition to specific remedy provided in Civil Rights Act for protection of electoral process against debasement by discrimination, courts retain undiminished authority to grant suitable equitable relief which will both rectify past inequities now, without delay, and will prevent future inequities. U.S.C.A. Const. Amends. 14, 15; 42 U.S.C.A. § 1971(e).

26. Courts ⇐262.4(11)

After declaring Louisiana constitutional interpretation test invalid on ground that its purpose and use was racially discriminatory, court would not require a general re-registration in parishes where interpretation test had been used, but until there was a general re-registration or until discriminatory effect of test had been vitiated to satisfaction of court, use of new citizenship test, promulgated by State Board of Registration, would be enjoined as to persons who had been of voting age and who had required residence prior to date on which they had been exposed to discrimination by interpretation test. LSA-Const. art. 8, § 1(d); LSA-R.S. 18:191; 42 U.S.C.A. § 1971(a).

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Jack P. F. Gremillion, Carroll Buck, Harry J. Kron, Jr., Baton Rouge, La., Henry Roberts, Jr., Weldon Cousins, John Jackson, New Orleans, La., Thomas W. McFerrin, Baton Rouge, La., for defendants.

OPINION—Filed November 27, 1963

Before WISDOM, Circuit Judge, and CHRISTENBERRY and WEST, District Judges.

WISDOM, Circuit Judge.

A wall stands in Louisiana between registered voters and unregistered, eligible Negro voters. The wall is the State constitutional requirement that an applicant for registration "understand and give a reasonable interpretation of any section" of the Constitutions of Louisiana or of the United States. It is not the only wall of its kind, but since the Supreme Court's demolishment of the white primary, the interpretation test has been the highest, best-guarded, most effective barrier to Negro voting in Louisiana.[1]

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[1] The following authorities are cited by author and page only: Carter, The Angry Scar (1959); Caskey, Secession and Reconstruction in Louisiana (1938); 1 Chambers, History of Louisiana (1925); 1 Davis, History of Louisiana (1960); Evans, A Study in the State Government of Louisiana

[fol. 126]

When a Louisiana citizen seeks to register, the Parish Registrar of Voters may ask the applicant to interpret the provision, "The Supreme Court and the Court of Appeal, and each of the judges * * may also in aid of their respective jurisdictions, original, appellate, or supervisory, issue writs of mandamus, certiorari, prohibition, quo warranto, and all other needful writs". Or, the registrar may ask the applicant to interpret a less technical but more difficult provision, constitutionally, such as, "Every person has the natural right to worship God according to the dictates of his own conscience."[2] In giving this test, the registrar selects the constitutional section and he must be satisfied with the explanation. In many parishes the registrar is not easily satisfied with constitutional interpretations from Negro applicants.

We hold: this wall, built to bar Negroes from access to the franchise, must come down. The understanding clause or interpretation test is *not* a literacy requirement. It has no rational relation to measuring the ability of an elector to read and write. It is a test of an elector's ability to interpret the Louisiana and United States Constitutions. Considering this law in its historical setting and considering too the actual operation and inescapable effect of the law, it is evident that the test is a sophisticated scheme to disfranchise Negroes. The test is unconstitutional as written and as administered.

I.

[1-3] The United States brings this action against the State of Louisiana and the directors and members of the Louisiana Board of Registration. In Section 601(b) of the Civil Rights Act Congress specifically authorizes such a suit. When an official of the State or of a subdivision of the State is found to have discriminated against United States citizens in violation of 42 U.S.C.A. § 1971(a), "the act or practice shall also be deemed that of the State and the State may be joined as a party defendant". 42 U.S.C.A. § 1971 (c). See United States v. Alabama, 1960, 362 U.S. 602, 80 S.Ct. 924, 4 L.Ed. 982; United States v. Dogan, 5 Cir. 1963, 314 F.2d 767, 771; Kennedy v. Lynd, 5 Cir., 1962, 306 F.2d 222, 228, cert. den'd 1963, 371 U.S. 952, 83 S.Ct. 507, 9 L.Ed.2d 500; United States v. Atkins, 5 Cir. 1963, 323 F.2d 733. Section 601 is clearly appropriate legislation under the Fifteenth Amendment, to say nothing of other sources of constitutional authority, and in United States v. Fox, E.D.La. 1962, 211 F.Supp. 25, *appeal pending*, the court summarily rejected the State's attack on the constitutionality of the section. See also United States v. Raines, 1960, 362 U.S. 17, 80 S.Ct. 519, 4 L.Ed.2d 524.

Independently of Section 601(b), "The obligations which [United States] is under to promote the interests of all and to prevent the wrongdoing of one resulting in injury to the general welfare, is often of itself sufficient to give it a standing in court". In re Debs, 1894, 158 U.S. 564, 15 S.Ct. 900, 39 L.Ed. 1092. When the alleged wrongdoing is based on a State law which is contrary to the superior authority of the United States Constitution, the Nation, as well as the aggrieved individuals, is injured. In such a conflict with the State the power of the Nation to protect itself and to go into its own courts to prevent the States from destroying federally protected

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(1910); Ficklen, History of Reconstruction in Louisiana (1910); 4 Fortier, History of Louisiana (1904); Howard, Political Tendencies in Louisiana (1957); Kendall, History of New Orleans (1922); Landry, The Battle of Liberty Place (1955); Lonn, Reconstruction in Louisiana (1918); McGinty, Louisiana Redeemed (1941); Marr, A Historical Review of the Constitutions of Louisiana, 1912-13 Proc.La. Bar Ass'n; Phelps, Louisiana (1905); Powell, History of Louisiana Constitutions, Volume 1, Part 1, Louisiana Law Institute, Projet of a Constitution for the State of Louisiana (1954); Randall, The Civil War and Reconstruction (195[illegible]); Shugg, Origins of Class Struggle in Louisiana (1939); Simkins, History of the South (1953); Woodward, Origins of the New South (1951).

[2] Article VII, Section 2 and Article I, Section 4, La.Const. of 1921, LSA.

rights of citizens derived from the Constitution would seem to be implicit in the Supremacy Clause and inherent in our federal system.

When a private litigant invokes the Fourteenth and Fifteenth Amendments, he must be able to show that State action is involved in the denial of his rights. Anomalously, he cannot sue the State, but must sue agents of the State on the theory that if the act to be enforced is unconstitutional, it is not the act of the State. Ex parte Young, 1908, 209 U.S. 123, 28 S.Ct. 441, 52 L.Ed. 714. This necessary fiction to accommodate the Eleventh Amendment provides no basis for any argument that the State cannot be made a party to this action. Here, no private litigant but the Nation itself is attacking the constitutionality of the laws of Louisiana. Louisiana therefore is the real party at interest and a proper party defendant. The Eleventh Amendment has no application to an action brought by the United States in its sovereign capacity. Principality of Monaco v. Mississippi, 1934, 292 U.S. 313, 329, 54 S.Ct. 745, 78 L.Ed. 1282.

The State and its agent, the Board of Registration, have the power and duty to prescribe rules and regulations governing the administration of voter qualification laws in Louisiana.[3] The Board has the power to remove at will any Parish Registrar of Voters.[4]

[4] The court has jurisdiction under 42 U.S.C.A. § 1971, 28 U.S.C.A. § 1345, and 28 U.S.C.A. § 2281. Since the suit challenges the validity of provisions of the State Constitution and certain statutes and presents substantial constitutional questions, it is a proper case to be heard by a three-judge court. 28 U.S.C.A. § 2281.

II.

Under the Constitution of Louisiana, registration, which is a prerequisite to voting in any election, is conducted in each parish by a registrar of voters. La.Const. Art. VIII, § 1(b). Except in Orleans Parish, the registrar is appointed by the police jury or other governing body of the parish. La.Const. Art. VIII, § 18; L.S.A.-R.S. 18:1.[5] Permanent registration is mandatory for parishes containing a municipal corporation of more than 100,000 population, and optional for other parishes. L.S.A.-R.S. 18:231, 18:249.

The Constitution of Louisiana, Article VIII, Section 1(d), as amended in 1960, provides, in part:[6]

> "He [a voter] shall be a person of good character and reputation, attached to the principles of the Con-

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[3] Article VIII, Section 18, La.Const. of 1921, as amended in 1962 and LSA-R.S. 18:191.

[4] Article VIII, Section 18, La.Const. of 1921.

[5] The registrar of voters for the Parish of Orleans is appointed by the Governor. La.Const. of 1921, Article VIII, Section 18, LSA-R.S. 18:1.

[6] As originally adopted in 1921, Article VIII of the Constitution contained two separate interpretation tests. Section 1(c) provided that persons able to read and write "shall also be able to read any clause in this Constitution, or the Constitution of the United States, *and give a reasonable interpretation thereof.*" Section 1(d) provided that persons unable to read or write could register if "able to *understand and give a reasonable interpretation* of any section of either Constitution when read to him by the registrar * * *." (Emphasis added.) In 1961, the test in Section 1(c) was deleted entirely as was the opening phrase of Section 1(d), which had made the latter section applicable only to illiterates. The result is that the test originally designed for illiterates is now the test applicable to every registrant, and the literacy requirements of Section 1(c) (filling out the form, etc.) are now applicable to every applicant.

LSA-R.S. 18:35 repeats verbatim the interpretation test as it appeared in Article VIII, Section 1(c) of the Constitution. Although that language has been deleted from the Constitution it remains in the statute. LSA-R.S. 18:36 repeats the test for illiterates that appeared in Article VIII, Section 1(d) of the Constitution before 1960, and which is now applicable to literate registrants as well. Section 36 has not been changed; thus according to the statute, illiterates can register, although under the Constitution it appears that they cannot register.

> stitution of the United States and of the State of Louisiana, and shall be *able to understand and give a reasonable interpretation* of any section of either Constitution when read to him by the registrar, and he must be well disposed to the good order and the happiness of the State of Louisiana and of the United States and must understand the duties and obligations of citizenship under a republican form of government." (Emphasis added.)

Title 18, Section 35 of the Louisiana Revised Statutes provides, in part:

> "Applicants for registration shall also be able to read any clause in the Constitution of Louisiana or of the United States and give a reasonable interpretation thereof."

The United States attacks the understanding and interpretation requirement as violative of 42 U.S.C.A. § 1971, the Civil Rights Act, and of the Fourteenth and Fifteenth Amendments to the Constitution of the United States.

III.

[5] A. There is no license for the loose statement that in our constitutional system the qualification of voters is "exclusively" committed to the States. See, for example, Darby v. Daniel, S.D.Miss. 1958, 168 F.Supp. 170, 176. More accurately, the States, under Article 1, Section 2 of the Constitution and the Seventeenth Amendment, are free to establish voting qualifications—only if the qualifications do not transgress the United States Constitution. Ex parte Clarke, 1879, 100 U.S. 399, 25 L.Ed. 715; Lassiter v. Northampton County Bd. of Elections, 1959, 360 U.S. 45, 79 S.Ct. 985, 3 L.Ed.2d 1072. The books are filled with examples of state election laws and practices found to transgress constitutional guaranties. Guinn v. United States, 1915, 238 U.S. 347, 35 S.Ct. 926, 59 L.Ed. 1340; Lane v. Wilson, 1938, 307 U.S. 268, 59 S.Ct. 872, 83 L.Ed. 1281; United States v. Classic, 1941, 313 U.S. 299, 61 S.Ct. 1031, 85 L.Ed. 1368; Davis v. Schnell, 1949, S.D.Ala., 81 F.Supp. 872, aff'd 336 U.S. 933, 69 S.Ct. 749, 93 L.Ed. 1093. In *United States v. Classic*, a "Louisiana" case, the Supreme Court, in sustaining federal indictments against state election officials for falsely certifying returns in a *congressional* election, said:

> "While, in a loose sense, the right to vote for representatives in Congress is sometimes spoken of as a right derived from the states, [citations omitted] this statement is true only in the sense that the states are authorized by the Constitution, to legislate on the subject as provided by § 2 of Art. I, to the extent that Congress has not restricted state action by the exercise of its powers to regulate elections under § 4 and its more general power under Article I, § 8, clause 18 of the Constitution 'to make all laws which shall be necessary and proper for carrying into execution the foregoing powers.' See Ex parte Siebold, 100 U.S. 371 [25 L.Ed. 717]; Ex parte Yarbrough, supra, [110 U.S. 651], 663, 664 [4 S.Ct. 152, 158, 28 L.Ed. 274] * * *."

In ex parte Yarbrough, 1884, 110 U.S. 651, 663, 4 S.Ct. 152, 158, 28 L.Ed. 274, cited in *Classic*, the court stated: "[I]t is not true * * * that electors for members of Congress owe their right to vote to the State law in any sense which makes the exercise of the right to depend exclusively on the law of the State."

[6] B. Three provisions of the United States Constitution deny plenary and exclusive power to the States to determine voting requirements and give special protection to a citizen against discrimination in the electoral process. Two are mandates expressly prohibiting discriminatory state action. The third is an affirmative grant of power to the United States.

The first and most important is the Fifteenth Amendment. It is clearly and simply expressed: "The right of citizens of the United States to vote shall not be denied or abridged by the United States or by any State *on account* of race, color, or previous condition of servitude". Uncomplicated by phrases freighted with history back to Magna Carta, the Fifteenth Amendment imposes on courts the unshirkable duty of inquiring into legislative purpose and striking down a fair-seeming law that, "on account of race", is in fact a discriminatory device to deprive Negroes of their vote. "The Fifteenth Amendment * * * clearly shows that the right of suffrage was considered to be of supreme importance to the national government, and was not intended to be left within the exclusive control of the States." Ex parte Yarbrough, 1884, 110 U.S. 651, 4 S.Ct. 152, 28 L.Ed. 274.

[7] Second, the Fourteenth Amendment, primarily by the "equal protection" clause, prohibits discriminatory voting qualifications. Nixon v. Herndon, 1924, 273 U.S. 536, 47 S.Ct. 446, 71 L.Ed. 759. As the Supreme Court stated in another context, however: Although this is "a more explicit safeguard of prohibited unfairness than 'due process of law.' * * * discrimination may be so unjustifiable as to be violative of due process. * * * Liberty under law extends to the full range of conduct which the individual is free to pursue, and it cannot be restricted except for a proper governmental objective.". Bolling v. Sharpe, 1954, 347 U.S. 497, 74 S.Ct. 693, 98 L.Ed. 884.

[8] Third, Article 1, Section 4 of the Constitution empowers Congress to "make or alter" the "[t]imes, Places and Manner of holding Elections for Senators and Representatives * * * prescribed in each State by the Legislature thereof."[7] Such Congressional authority extends to registration, a phase of the electoral process unknown to the Founding Fathers but today a critical, inseparable part of the electoral process which must necessarily concern the United States, since registration to vote covers voting in federal as well as in state elections.[8] In

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[7] Art. 1, Section 2, and the Seventeenth Amendment provide that in elections of United States Representatives and Senators "[t]he Electors in each State shall have the qualifications requisite for electors of the most numerous branch of the State legislatures". Traditionally, these provisions establish the basis for the proposition that the States alone possess the right to establish qualifications for voting. See Ervin, Literacy Tests for Voters: A Case Study in Federalism, 27 Duke L.Cont.Prob, 481 (1962); Werdegar, The Constitutionality of Federal Legislation to Abolish Literacy Tests, 30 Geo.Wash.L.Rev. 723 (1962) (Werdegar, however, accepts the constitutionality of a congressional standard for literacy); Ritz, Free Elections and the Power of Congress over Voter Qualifications, 49 Am.Bar Jour. 949 (1963); Note, Use of Literacy Tests to Restrict The Right to Vote, 31 Notre Dame L.Rev. 250 (1956): For recent writings in which the authors conclude that a congressional anti-literacy test statute is constitutional, see Van Alystyne, "The Administration's Anti-Literacy Test Bill", 61 Mich.L.Rev. 805 (1963); Maggs and Wallace, Congress and Literacy Tests, 27 Duke L. & Cont. Prob. 510 (1962); Bement, Congressional Authority to Restrict the Use of Literacy Tests, 50 Cal.L.Rev. 265 (1962); Note, The Constitutionality of Federal Anti-Literacy Test Legislation, 46 Minn. L.Rev. 1076 (1962). See also 1 Crosskey, Politics and The Constitution 524–537 (1953).

[8] The Civil Rights Commission has unanimously found, to the surprise of none, that the registration procedure is the principal means of disfranchising Negroes. 1961 Civil Rights Report 133–38. A leading authority writes: "In the South registration assumes special importance because of the peculiar regional suffrage qualifications. Registration authorities determine whether applicants meet literacy and understanding tests and thus have functioned as the principal governmental agency for Negro disfranchisement. * * * Commonly the statutes attempt to vest finality of decision in the local registration officials and make appeals from their decisions difficult. In states whose suffrage qualifications involve wide discretion in their application, this finality of decision may re-enforce abuses of discretion. * * * Every local registration officer is a law unto himself in determining the citizen's possession of literacy, understanding, and other qualifications. * * * Louisiana's battery of literacy, understanding, and character requirements * * * for the

Ex parte Siebold, 1880, 100 U.S. 371, 25 L.Ed. 717 the Supreme Court relied on Article 1, Section 4, in sustaining a statute providing, among other things, for federal registrars, supervisors, in registration offices. See also In re Supervisors of Election, C.C.Ohio 1878, 23 Fed. Cas. 430 (No. 13628). In United States v. Manning, W.D.La.1963, 215 F.Supp. 272, 277, this Court upheld the registration provisions of the Civil Rights Act of 1960: "[N]othing in the language or history of the Tenth Amendment gives the State exclusive sovereignty over the election processes against the Federal government's otherwise constitutional exercise of a power." See McColloch v. Maryland, 1819, 4 Wheat. 316, 17 U.S. 316, 4 L.Ed. 579 and United States v. Darby, 1941, 312 U.S. 100, 124, 61 S.Ct. 451, 85 L.Ed. 609.

[9, 10] The "necessary and proper" clause, Article 1, Section 8, Clause 18, gives Congress full authority to legislate under Article 1, Section 4 (or any other constitutional grant of power); the Fourteenth Amendment, Section 5, specifically grants power to Congress to pass "appropriate legislation" to prevent the denial of equal protection of the laws; the Fifteenth Amendment, Section 2, specifically grants power to Congress to pass "appropriate legislation" to guarantee that the right to vote shall not be abridged on account of race. Ex parte Virginia, 1879, 100 U.S. 339, 25 L.Ed. 676, makes it clear that the "appropriate legislation" clause of the Fourteenth and Fifteenth Amendments is as broad as the "necessary and proper clause", as construed in McCulloch v. Maryland, 1899, 4 Wheat. 316, 17 U.S. 316, 4 L.Ed. 579. The Supremacy Clause, Article VI, subordinates any conflicting state legislation to congressional legislation. The totality of implied powers these sections grant to

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white population mean absolutely nothing. They exist only as a bar to Negro registration." Key, Southern Politics 500, 563, 573 (1949). "[The findings of the Civil Rights Commission] and a survey of cases filed under Section 1971 will make even clearer that it is abuses of discretion by registrars, operating under state laws allowing them to test applicants by subjective standards, that is felt to be the problem." Van Alystyne, Anti-Literacy Test Legislation, 61 Mich.L.Rev. 805, 813 (1963). See also McGovney, The American Suffrage Medley 61, 66–73 (1949); Price, The Negro Voter in the South 14–17 (1957).

"Apathy", an unctuous, self-excusing word comes trippingly to the tongue to rationalize the small Negro registration in some of the parishes in Louisiana. There are undoubtedly a number of reasons besides discrimination for the disparity between Negro and white registration. Thus, in a recent study the authors write: "About 28 per cent of the voting age Negroes in the South were registered to vote in 1958, as compared to about 60 per cent of the voting age whites. It would be a gross error to attribute this substantial disparity to legal and political discrimination alone, though unquestionably official discrimination is a factor, for Southern Negroes overwhelmingly possess the historical heritage of low social status, relatively small incomes, and limited educations received in inferior schools. These attributes are associated with low voter turnout among *all* populations, regardless of skin color or region. Moreover, the low status, income and education of many southern whites foster racial prejudice. Thus poverty and ignorance may have a double-barrelled effect on Negro political participation by decreasing the Negroes' motivation and ability to participate while increasing white resistance to their doing so. The low voting rates of Negroes in the South may result to a large extent from these factors, as well as from direct political or legal discrimination by the white community." Mathews and Prothro, Political Factors and Negro Voter Registration in the South, 57 Am.Pol.Sc.Rev. 355 (1963). See also Mathews & Prothro, Social and Economic Factors and Negro Voter Registration in the South, 57 Am.Pol.Sc.Rev. 24, 39–44 (1963). But discriminatory registration laws and practices are the most potent weapons to keep Negro voting down. Price, The Negro and the Ballot in the South (1959); Brown, American Suffrage (1960); Mangum, The Legal Status of the Negro (1960). There was no apathy in the Negro electorate in 1897 when Negro registration equalled white registration in Louisiana. And it is a fair inference that Negro interest in voting, accelerated as it must have been by the civil rights explosion of recent years, is no less in 1963 than it was in 1897.

Congress are full authority for Congress to enact the Civil Rights Act or other appropriate legislation to regulate elections (including registration) under Article 1, Section 4, and to protect the integrity of the electoral process under the Fourteenth and Fifteenth Amendments. United States v. Classic, 1941, 313 U.S. 299, 61 S.Ct. 1031, 85 L.Ed. 1368; Burroughs v. United States, 1934, 290 U.S. 534, 54 S.Ct. 287, 78 L.Ed. 484; Ex parte Yarbrough, 1884, 110 U.S. 651, 663, 4 S.Ct. 152, 28 L.Ed. 274.

[11, 12] C. "It is said [more often in the past than in recent years, we interpolate] that when the meaning of language is plain we are not to resort to evidence in order to raise doubts. That is rather an axiom of experience than a rule of law, and does not preclude consideration of persuasive evidence if its exists". Boston Sand and Gravel Co. v. United States, 1928, 278 U.S. 41, 48, 49 S.Ct. 52, 53, 73 L.Ed. 170 (Holmes, J.) "Of course one begins with the words of a statute to ascertain its meaning, but one does not end with them". Massachusetts Bonding & Ins. Co. v. United States, 1956, 352 U.S. 128, 138, 77 S.Ct. 186, 191, 1 L.Ed.2d 189 (Frankfurter, J., dissenting).

[13] In going beyond the verbal surface of the Louisiana interpretation test, we have sought to eschew inquiry into motive. A federal court's proper respect for the State and the judiciary's due regard for the legislative process, among other reasons, compel this restraint. Candor compels the admission however that in this case the line between the *motive* of the lawmakers and the *purpose* of law is blurred. Blur or not, the court cannot, on the one hand, carry out its judicial function of giving effect to legislative intent, or, on the other hand, invalidate the law under a reasonable construction fair to the framers, without first determining the purpose of the law.

As we see it, *purpose* carries the meaning of Coke's "true reason" for the law in the light of the situation at which it is aimed. Heydon's Case, 3 Co.Rep. 7a, 7b, 76 Eng.Rep. 637 (1584). "[L]aws are not abstract propositions. They are expressions of policy arising out of specific situations and addressed to the attainment of particular ends. * * * And so the bottom problem is: What is below the surface of the words and yet fairly a part of them?" Frankfurter, Some Reflections on the Reading of Statutes, 47 Col.L.Rev. 527, 533 (1947). Purpose then, or the "true reason" for the law, determined as objectively as possible, is an essential part of the context within which a law must be read, if the Court is to appraise fairly the validity of the law. Llewellyn stated this well:

> "If a statute is to make sense, it must be read in the light of some assumed purpose. A statute merely declaring a rule, with no purpose or objective, is nonsense. * * * [When there are] ideas consciously before the draftsmen, the committee, the legislature, * * * talk of 'intent' is reasonably realistic; committee reports, legislative debate, historical knowledge of contemporary thinking or campaigning which points up the evil or the goal can have significance." Llewellyn, The Common Law Tradition 374 (1960).

See also N.A.A.C.P. v. Button, 1963, 371 U.S. 415, 83 S.Ct. 328, 9 L.Ed.2d 405; Jordan v. Hutcheson, 4 Cir. 1963, 323 F.2d 597; Howell, Legislative Motive and Legislative Purpose in the Invalidation of a Civil Rights Statute, 47 Va.L.Rev. 439 (1961).

To Louisianians familiar with the history of their state, it must seem an exercise in futility for the Court to labor the proof of the true reason for the understanding or interpretation test. However, two decisions by three-judge courts in this circuit put a high premium on the Court's ascertaining the true reason for the test. These are Davis v. Schnell, S.D.Ala.1949, 81 F.Supp. 872, aff'd mem. 1949, 336 U.S. 933, 69 S.Ct. 749, 93 L.Ed. 1093, and Darby v. Daniel, S.D.Miss. 1958, 168 F.Supp. 170. In *Davis v. Schnell*, the court, in holding the Alabama understanding clause unconstitutional, based its decision, in good part, on the discriminatory purpose of the law as evidenced by its history. The Court, in *Darby v. Daniel*, held the Mississippi understanding clause constitutional and distinguished *Davis v. Schnell*, in part because the plaintiff had failed to show that Mississippi's understanding clause was intended to discriminate against Negroes.

[14] D. It is not unusual for courts to look beyond the face of a statute.

A court may find that a law non-discriminatory on its face is discriminatorily administered. "Though the law itself be fair on its face and impartial in appearance, yet, if it is applied and administered by public authority with an evil eye and unequal hand, so as practically to make unjust and illegal discriminations between persons of similar circumstances, material to their rights, the denial of equal justice is still within the prohibition of the Constitution." Yick Wo v. Hopkins, 1886, 118 U.S. 356, 6 S.Ct. 1064, 30 L.Ed. 220.

The legislative purpose and inevitable effect of a law non-discriminatory on its face may be decisive in determining the unconstitutionality of the law. In Gomillion v. Lightfoot, 1960, 364 U.S. 339, 81 S.Ct. 125, 5 L.Ed.2d 110, the Supreme Court had before it an Alabama statute which changed the shape of Tuskegee "from a square to an uncouth twenty-eight-sided figure." No one has ever doubted that a state legislature has the power to determine municipal boundaries, and a long line of cases, going back to Luther v. Borden, 1849, 7 How. 1, 12 L.Ed. 581, and continuing through Colegrove v. Green, 1946, 328 U.S. 549, 66 S.Ct. 1198, 90 L.Ed. 1432, strongly argued for the conclusion that gerrymandering of election districts was a "political" problem. In holding the law unconstitutional under the Fifteenth Amendment, the Supreme Court based the decision on the statutory objective and the effect of removing from Tuskegee all save four or five of its 400 Negro voters:

> "When a State exercises power wholly within the domain of state interest, it is insulated from federal judicial review. But such insulation is not carried over when state power is used as an instrument for circumventing a federally protected right. This principle has had many applications. It has long been recognized in cases which have prohibited a State from exploiting a power acknowledged to be absolute in an isolated context to justify the imposition of an 'unconstitutional condition.' What the Court has said in those cases is equally applicable here, viz., that 'Acts generally lawful may become unlawful when done to accomplish an unlawful end, United States v. Reading Co., 226 U.S. 324, 357 [33 S.Ct. 90, 57 L.Ed. 243], and a constitutional power cannot be used by way of condition to attain an unconstitutional result.' Western Union Telegraph Co. v. Foster, 247 U.S. 105, 114 [38 S.Ct. 438, [439], 62 L.Ed. 1006, 1 A.L.R. 1278]." 364 U.S. at 347–348, 81 S.Ct. at 130, 5 L.Ed.2d 110.

In Grosjean v. American Press Co., 1936, 297 U.S. 233, 56 S.Ct. 444, 80 L.Ed. 660, a Louisiana law appeared to be simply a graduated tax on newspaper and theatre advertising. Underneath the surface, as the evidence showed, was the legislative purpose to punish New Orleans newspapers for criticism of Governor Huey Long. With nothing in the statute to show the object of the tax and little in the record to show how it was generated, or how it worked, the Supreme Court went beyond appearances and struck down the tax as in effect an abridgment of First Amendment freedom of the press in violation of the due process clause of the Fourteenth Amendment. Cases too numerous to cite sustain taxation of newspapers. As the Court stated:

> "[The tax] is bad because, *in the light of its history and of its present setting*, it is seen to be a deliberate and calculated device in the

[fol. 133]

guise of a tax to limit the circulation of information to which the public is entitled in virtue of the constitutional guarantees." 297 U.S. at 250, 56 S.Ct. at 449, 80 L.Ed. 660.

[15] In this case, too, we must go into the "history" and "present setting" of a law non-discriminatory on its face. In doing so, we bear in mind a maxim quoted appropriately in this circuit many times in recent years, a maxim from one of the Supreme Court decisions outlawing the Oklahoma grandfather clause: "[The Constitution] nullifies sophisticated as well as simple-minded modes of discrimination. It hits onerous procedural requirements which effectively handicap exercise of the franchise by the colored race although the abstract right to vote may remain unrestricted as to race." Lane v. Wilson, 1939, 307 U.S. 268, 275, 59 S.Ct. 872, 876, 83 L. Ed. 1281.

IV.

To obtain some necessary pages of history, more valuable than volumes of logic, as Holmes has said, we sacrifice brevity.

The Louisiana interpretation test and its current variant, the citizenship test, are best understood as the latest, but perhaps not final, members of a long, logically connected series of socio-political events. These are rooted in the State's historic policy and the dominant white citizens' firm determination to maintain white supremacy in state and local government by denying to Negroes the right to vote.

A. There was, of course, no problem in colonial and territorial times; the *Codes Noir*, from the 1724 Code to Act 33 of the Territorial Legislature of 1806, disfranchised Negroes. Louisiana became a state in 1812. Its first Constitution set the pattern. It limited the franchise to "free white male citizen[s]" who had paid state taxes or purchased land from the United States within six months prior to the election. For thirty-three years this constitutional limitation kept the ballot chiefly in the hands of landowners and merchants, disfranchised two-thirds of the electorate, and favored New Orleans and the southern parishes over the rest of the State. The Constitution of 1845, in many respects a progressive and broadly democratic document, did away with the tax-paying qualification for voters and established universal suffrage for free white males, regardless of wealth and literacy, but limited the vote to citizens of the United States who had resided in Louisiana for two years, and barred the vote to paupers and men in military service. The next Constitution, adopted in 1852, broadened the suffrage qualifications by lowering the state residential requirement to one year, and introduced registration of voters, a progressive step many years in advance of most states. This Constitution required registration for Orleans Parish and made it optional with the legislature for the other parishes.

Thus, from the *Code Noir* of 1724 until 1864, the organic law of the state ordained that only free white males could vote or hold office. This was in a state where there were thousands of free men of color. Many of these were well educated and owned slaves. Except for suffrage, they possessed the civil and legal rights of white citizens.[9]

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[9] In 1810 New Orleans had 8,001 white persons, 5,727 free persons of color, and 10,824 slaves. *Aggregate Amount of Persons Within the United States in 18[illegible]* (Wash.D.C.1811) p. 82. A battalion of *gens de couleur* fought at the Battle of New Orleans in 1815. Rousseve, The Negro in Louisiana 24–29 (1937). In 1830 there were 16,710 free persons of color and 109,588 slaves in Louisiana. In 1860 Louisiana free men of color owned real property and slaves valued at $50,000,000. Carter, 253. A person of color was presumed to be free. Adelle v. Beauregard, 1810, 1 Mart. (O.S.) 183. Bureau of the Census, Negro Population, 1790–1915 (Wash.1918). In general see Rousseve, The Negro in Louisiana 24–29, 44–45 (1937); Stahl, The Free Negro in Ante-Bellum Louisiana, 25 La.Hist.Quart. 301 (1942); Woodson, Free Negro Heads of Families in the United States in 1830 (1925); Burns, The Black Code, 5 Layola L.J. 15 (1923). Historically, therefore,

The Constitutional Convention of 1864 was the first convention in Louisiana to consider Negro suffrage. During the federal occupation of New Orleans, General N. P. Banks, Commander of the Gulf Department, at the direction of President Lincoln, ordered an election of delegates to a constitutional convention. Negroes could not vote for the delegates and were not represented in the Convention. It was attended by delegates from the federally occupied part of the State only: Orleans and eighteen southern parishes which recognized Michael Hahn as Governor. (Henry W. Allen was the Confederate Governor for the rest of the State.) The Constitution of 1864 abolished slavery and provided for free public schools for all children between six and eighteen years, regardless of race, but retained the previous limitation of suffrage to white males. In the early stages of the convention a strong sentiment existed against granting suffrage to the Negroes, and the delegates actually adopted a resolution declaring that the legislature should never pass a law authorizing Negroes to vote.[10] Later in the session, the delegates established a voting qualification, without amending the suffrage ordinance restricting the vote to white males. This was based on an intelligence test, in the interest of permitting Negro suffrage. The resolution in question authorized the legislature "to pass laws extending suffrage to such other persons, citizens of the United States, as by military service, by taxation to support the Government, or by intellectual fitness, may be deemed entitled thereto."[11] The word "Negro" was not contained in the resolution as proposed in the Convention or in the ordinance as adopted and, at the time, which was before the adoption of the Civil War Amendments, it was generally thought that Negroes were not citizens. Nonetheless, in the debates over the resolution a number of delegates denounced it as a "nigger resolution", and at least one delegate stalked out of the Convention in protest against Negroes being allowed to vote.[12]

The Constitution of 1864 required the registration of *all* voters in the State. In 1867 the State Board of Registration, making its first report, showed 45,189 white and 84,527 Negro registrants. The male population of voting age in Louisiana in 1860 was 94,711 whites and 92,502 Negroes.[13]

Racial relations in Louisiana deteriorated rapidly. In the fall of 1865 the Democrats in Louisiana adopted resolutions "that this is a Government of white people, made and to be perpetuated for the exclusive benefit of the white race", and declared the Constitution of 1864 a creature of fraud.[14] Radical Republi-

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color and not education or anything else has always been determinative of a voter's qualifications in Louisiana.

[10] Ficklen, 71; Caskey, 128; Carter, 253-255.

[11] President Lincoln, in keeping with his plan for gradual reconstruction and Negro suffrage by stages, had suggested to Governor Hahn for his "private consideration, whether some of the colored people may not be let in; as for instance, the very intelligent and especially those who have fought gallantly in our ranks." See 1 Fortier, Louisiana (Biographical Edition 1914) 485-7; Carter, 253-255. President Lincoln devoted most of his last public address, April 13, 1865, to reconstruction in Louisiana. He urged approval of the new state government as a means of getting the State again into "a proper practical relation with the Union". Congress did not approve it. Evans, 42. The Louisiana Supreme Court held that the Constitution of 1864 and legislation under it was only "provisional in character". Police Jury v. Burthe, 1869, 21 La.Ann. 325.

[12] Debates in Convention, 1864, 450; Ficklen, 72.

[13] Report of the Board of Registration to the General Assembly of Louisiana (1869). See Woodward, The Burden of Southern History 99 (1961).

The Civil Rights Act of March 2, 1867, 14 Stat. 428, required a registration of all voters of "whatever race, color, or previous condition." No one could be registered, however, "who had participated in the rebellion", and a loyalty oath had to be taken by each registrant.

[14] Ficklen, 109.

cans, refusing to recognize the existing Democratic Government in Louisiana and adopting the Sumner theory that Louisiana was reduced to the status of a territory and as such was entitled to a territorial delegate to Congress, met in convention and called an election for November 6, 1865, to elect a delegate. Henry Clay Warmoth, later Governor, generally regarded in Louisiana histories as a carpetbagger, was elected as the delegate—without opposition.[15] In that election, such as it was, for the first time in the history of the State, Negroes voted freely.

Ominous events progressively increased the friction between the races in the years between the Constitutions of 1864 and 1868. In 1864, relatively peacefully, the Free State Party attempted to establish a government "responsive to loyal white people; the demobilized Confederates, an administration which would restore Louisiana to its ante-bellum condition, except that peonage would replace slavery".[16] By 1865 Confederate veterans had returned in number and in an orderly election that year defeated the Free Staters and gained control of the legislature, mainly by opposing Negro suffrage.[17] The legislature and police juries promptly enacted new Black Codes which reduced the Negro to a "condition which lay between peonage and serfdom"[18] and intensified the activities of Republicans and Northern radicals for Negro suffrage. July 30, 1866, a bloody riot took place in New Orleans at Mechanics Institute. This "massacre" was provoked, it has been said, by "the attempt of some irresponsible white radicals to transfer the franchise from Confederate veterans to freed men".[19] In 1867 the Louisiana legislature rejected the Fourteenth Amendment. "There followed, as night the day, military reconstruction."[20]

In 1868 General Philip H. Sheridan, Commander of the Fifth Military District of Louisiana and Texas, called a constitutional convention to meet the conditions Congress imposed on the former States of the Confederacy: suffrage regardless of race and ratification of the Fourteenth Amendment. In the election of delegates to the convention, Confederate veterans and Democratic officeholders were barred from the polls. This was the first and last Louisiana constitutional convention to which Negro delegates were admitted; the president of the convention and forty-nine of the ninety-eight delegates were Negroes. In the 1868 Constitution Negroes finally received the right to vote and to hold office. This Constitution disfranchised all persons who had participated directly or indirectly in the War[21] on the Confederate side and, pouring salt on open wounds, required, as a condition to voting, a certificate from Confederate soldiers and Democratic officeholders that "the late rebellion" was "morally and politically wrong".[22] The Constitution of 1868 desegregated the schools, adopted the bill of rights, rejected a literacy test, and prohibited discrimination in public conveyances and places of public accommodation. This was all "that was needed to strengthen the determination of Southern whites to establish white supremacy, at whatever cost. The Constitution of 1868, therefore, instead of closing the breach between whites and blacks, served only to widen it."[23]

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[15] Ficklen, 109–115; 4 Fortier, 94; Bowers, The Tragic Era 363 (Sentry, 1962) See Warmoth's self-serving autobiography, War, Politics, and Reconstruction (1930). Ironically, the election was meaningless, except for its effect on Warmoth's career. Congress did not recognize either Warmoth or the two Louisiana senators.

[16] Shugg, 211.

[17] Shugg, 211; Powell, 369.

[18] Shugg, 213. The most severe laws were enacted by the police juries, not the legislature. Fleming, Documentary History of Reconstruction 279–81 (1906). See also Randall, 724–30.

[19] Shugg, 216; McGinty, 6; 1 Kendall, 305–314; Ficklen, 175; Caskey, 219–31. A. P. Dostie, an active white Free Stater and Republican leader, who campaigned for Congress, unsuccessfully, as the "Robespierre of the Revolution", was killed, along with thirty-four Negroes; over 200 were wounded. The *Congressional Report of the Select Committee on the New Orleans Riots* concluded that it was a "massacre" plotted and perpetuated in cold blood. H.R.Rep. 39 Cong. 2d Sess., No. 16 (1866). No historian has endorsed that judgment. Shugg, 217. But see DuBois, Black Reconstruction in America 464 (1935) and Reed, Life of A. P. Dostie 286–330 (1868).

[20] Shugg, 218. See also Howard, 73. "The reconstruction of Louisiana prolonged the civil war between North and South and precipitated within the state first a social revolution and then a counter-revolution. Each phase was marked by a new constitution which changed, directly or indirectly, the dispensation of power." Shugg, 196.

[21] "The new suffrage law was the most stringent, perhaps, in its defranchising

As a result of the disfranchisement of many former Confederate soldiers and the enfranchisement of Negroes, the 1868 election resulted in the election of Warmoth as Governor, and of Oscar J. Dunn, a Negro ex-slave, as Lieutenant Governor. Between 1868 and 1896, a number of Negroes held high office in the State: two congressmen, six high state officials, thirty-two state senators, ninety-five state representatives, and one United States Senator, who was not seated;[24] P. B. S. Pinchback served briefly as Governor.

The years from 1864 to 1876 in Louisiana were years of violence and disorder, notwithstanding the presence of federal troops during these years. In 1873 at Colfax, Grant Parish, fifty-nine Negroes and two white persons were killed.[25] After the Colfax riot additional federal troops were sent to Louisiana and stationed at various points to aid officials in keeping order. Louisiana became an armed camp. In 1874 six white Republican officeholders of Red River Parish were killed, after they had surrendered and had agreed to leave the State.[26] Elections were a farce, since "Governor [Kellogg] appointed the registrars, and through them returned his friends to the legislature"; "politicians bribed legislators for party and parish favors, and business men and corporations bribed the politicians for economic priv-

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clauses to be found in the constitutions of all the Southern states." Evans, 45.

[22] Article 99, in part, provided: "The following persons shall be prohibited from voting and holding any office: * * * All persons who are estopped from claiming the right of suffrage by abjuring their allegiance to the United States Government, or by notoriously levying war against it, or adhering to its enemies, giving them aid or comfort, but who have not expatriated themselves, nor have been convicted of any of the crimes mentioned in the first paragraph of this article, are hereby restored to the said right, except the following: Those who held office civil or military, for one year or more, under the organization styled 'the Confederate States of America;' those who registered themselves as enemies of the United States; those who acted as leaders of guerrilla bands during the late rebellion; those who, in the advocacy of treason, wrote or published newspaper articles or preached sermons during the late rebellion; and those who voted for and signed an ordinance of secession in any State. No person included in these exceptions shall either vote or hold office until he shall have relieved himself by voluntarily writing and signing a certificate setting forth that he acknowledges the late rebellion to have been morally and politically wrong, and that he regrets any aid and comfort he may have given it; and he shall file the certificate in the office of the secretary of state, and it shall be published in the official journal." This Article was amended in 1870 to prohibit only those persons from voting or holding office who had been convicted of treason, or of a crime punishable by imprisonment in the penitentiary.

[23] Powell, 370.

[24] In 1873 the Kellogg legislature elected Pinchback to the United States Senate. After a contest extending over many years the Senate gave him $20,000 for expenses, but refused to seat him. "[E]ducated mulattoes such as Oscar Dunn and P.B.S. Pinchback [were] a type which was the peculiar product of antebellum racial relations in Louisiana." Shugg, 221.

[25] Chambers, 675; Simkins, 287; Lonn, 240–45; Howard, 76; Carter, 202–209.

[26] Lonn, 265–67; 1 Chambers, 682; Simkins, 287; Howard, 76; Carter, 225; Sen.Exe.Doc., 43 Cong., 2 Sess., No. 17, House Repts., 43 Cong., 2 Sess., No. 261, 773–80.

ileges".[27] During most of the years between 1866 and 1877 there were two governors and two legislatures. The Republican governors and their elected associates were maintained in office only by the Returning Board and federal troops. Representative white citizens considered it a civic duty[28] to belong first to The Knights of the White Camelia, a secret organization equivalent to the Ku Klux Klan in other states, and, later, to join the White League, a statewide organization which openly advocated white supremacy[29] in a published platform. September 14, 1874, the Crescent City (New Orleans) White League, which was organized militarily, led by influential citizens, successfully fought a pitched battle in New Orleans against 3000 of Kellogg's Negro militia, 1000 Metropolitan Police[30] under General Longstreet, and several hundred federal troops. The

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[27] Shugg, 224, 226.

[28] "The best men of the State were soon enrolled in its [White League] ranks." Phelps, 376. In 1875, when General Sheridan called the leaders of the White League "banditti", the Catholic Archbishop in New Orleans, the Episcopal Bishop of Louisiana, the Methodist Bishop at New Orleans, the leading Jewish Rabbi and the leading Presbyterian Rector in New Orleans promptly came to their defense in a joint public statement. 4 Fortier, 175. Not long after, the white people in New Orleans stepped to the tune of the "March of those Louisiana Banditti" and danced the "People Rights Quick Step" and the "White League Waltz". Landry, 80.

[29] "It is impossible to estimate the strength or to exaggerate the importance of an organization like the White League. When the New Orleans *Bulletin*, put its enrollment at fourteen thousand men, 'organized and armed', a North Louisiana paper [Minden Democrat, August 29, 1874] claimed that there were at least ten thousand men who belonged to it in that region." Shugg, 230. According to Chambers, the first organization was formed at Opelousas in St. Landry in April 1874. Carter, at 224, states that it was originated in Winn Parish. Cross (2 Biographical and Historical Memories 57. Goodspeed, 1892) claimed it for Caddo. There were a number of organizations, some very loosely organized, which became White Leagues or were associated with *the* White League formed in New Orleans July 2, 1874. For example, there was The White Man's Club or Caucasian Club, organized in Franklin, in St. Mary's Parish by Judge Alcibiade De Blanc as early as 1867; leagues in Winn and Grant in July 1874; "Bulldoozers" in East Feliciana, West Feliciana, East Baton Rouge, Morehouse, and Ouachita; the Innocents, most of whom were of Italian extraction. The White Leagues were especially strong in Southwest Louisiana, St. Landry, St. Martin, St. Mary, Lafayette, and New Iberia. The New Orleans White League was formed by the same men who had organized the Crescent City Democratic Club in 1868. This was a secret society composed of members of the Chalmette Club, a social club which merged with the Boston Club in 1873. The Crescent City White League, under General Fred N. Ogden, was organized into two regiments of infantry and one regiment of artillery; in the parishes the leagues were often only political clubs. Associated with the Crescent City White League was the First Louisiana Regiment, known as "Louisiana's Own", a secret organization intended to serve as part of Governor McEnery's militia. (The Federal Government recognized William Kellogg and not John McEnery as Governor.) See Landry, 52–68; Lonn, 254–307; 1 Kendall 359–375; 1 Chambers, 679; Phelps, 376; 4 Fortier, 132–62; 1 Fortier, Louisiana (Biographical Ed. 1914) 314, 605–609; Carter, 224–229; 1 Davis, 271; Lestage, The White League and Its Participation in Reconstruction Riots, 18 La.Hist.Quart. 358 (1928); House Repts. 43, Cong., 2 Sess., No. 101, Part ii. 206–7.

Negroes and radical Republicans formed the Loyal League, the Black League (under Caius Caeser Antoine, Negro Lieutenant-Governor). The "Republican Alliances" and other protective organizations, but no organized leagues comparable with the White Leagues. However, in the Loyal League the "strictest discipline was enforced and personal injury, even death, was the penalty for voting a Democratic ticket." Fleming, Documentary History of Reconstruction 350 (1907). 57,300 Negroes were enrolled in 94 clubs, under strict discipline. Ficklen, 186. In 1867 the Union League Clubs of New York and Philadelphia sent organizers into Louisiana to form Union and Liberty Leagues among the Negroes. Landry, 10; Carter, 52, 62; Lonn, 255–57.

[30] The Metropolitan Police was a military force equipped with guns and cannon, un-

White League took over complete control of the City, then the Capitol of Louisiana, and established in the Statehouse Acting Governor Penn and, later, Governor McEnery. President Grant came to the rescue with sufficient troops to support Governor Kellogg's regime, and the White Leaguers returned to their homes without incident. Some years later, Liberty Place Monument was erected to the memory of the sixteen members of the White League who were killed. September 14 is still officially celebrated annually in New Orleans with public ceremonies as the day the tide turned in Louisiana against the Negroes, carpetbaggers, and scalawags who had been in control of state and local government.[31]

The Battle at Liberty Place had an important effect on the election of 1876 when the "Redeemers", the White Democrats under Francis T. Nicholls, defeated the Negro Republican candidate, S. B. Packard. Throughout the State, and especially in New Orleans, armed members of the White League policed the election. Governor Nicholls, who ran as the White League's choice but who had also promised Negroes the continued enjoyment of their constitutional privileges, managed to attract enough Negro ballots to win by a substantial, if contested, vote. Governor Kellogg's Returning Board and, later, the Republican Legislature, declared S. B. Packard elected. Nicholls and Packard were each inaugurated. January 9, 1877, the White League numbering 6000, marched on the Cabildo in New Orleans, where Packard's troops were stationed. The troops surrendered. President Grant, unwilling to take sides because of the pending Hayes-Tilden controversy, ordered the status quo preserved. For four months armed White Leaguers patrolled the streets of New Orleans.[32]

Louisiana was the last of the Southern States to be freed from carpetbag government. In April 1877 President Hayes, as part of the Hayes-Tilden compromise, removed federal troops from Louisiana and recognized the Nicholls administration as the legal government of the state.[33] These events foreshadowed the "lily white" primary, marked the emergence of the Democratic party in the south as "the institutionalized incarnation of the will to White Supremacy,"[34] and led inexorably to the "grandfather"

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der a commission of five, including three Negroes. Originally it had jurisdiction over New Orleans, Jefferson City, and Saint Bernard Parish. Later, the Governor was authorized to use it anywhere in the State. McGinty, 9; Phelps, 306; 1 Chambers 669.

31. "The 14th of September, 1874, though apparently barren of results, was really the blow that broke the fetters imposed upon by the Reconstruction Acts of 1867. On January 9, 1877, the people rose again to achieve the freedom of their State, and the chains, half-sundered in 1874, fell to the ground." 4 Fortier, 162. "The Battle of Liberty Place in 1874 changed the tide of opinion, brought the end of Reconstruction in the South, and started the Southern people on their way to the great prosperity which they now enjoy." Landry, 193. These opinions are typical of the views of all the orthodox Louisiana historians.

32. Landry, 190–192.

33. Woodward, 23–30; Haworth, The Hayes-Tilden Disputed Election of 1876 (1906); Woodward, Reunion and Reaction: The Compromise of 1877 and the End of Reconstruction (1951); Carter, 326–341; Simkins, op. cit. 293–94; 4 Fortier, 191; Randall, 876 (1953); Lonn, 495–525 (1918); McGinty, 55–151. The Commission appointed by President Hayes to investigate the Nicholls-Packard election, declared Nicholls, the Democratic candidate, legally elected, but it gave the electoral votes to Hayes, instead of to Tilden. The Nicholls legislature, which the President's commission recognized, elected Henry M. Spofford to the United States Senate; the unrecognized Packard legislature elected William P. Kellogg. The Senate refused to seat Spofford and seated Kellogg. President Hayes pensioned off Packard as a United States Consul.

34. Cash, The Mind of the South 128 (1941). For an appraisal of these events which most white Louisianians would regard as unorthodox, see Howard, 77–83. For example: "[T]he Negro became the object of white terror based primarily on political grounds. The inescapable con-

clause, the understanding or interpretation test, and the tricky registration application form as techniques to avoid another Reconstruction.

In 1879, with the State firmly in the control of the White League, another Constitution was adopted. "Its chief objectives apparently, were to put 'white supremacy' back on a firm foundation and bring to an end the oppressive taxation, excessive public spending, and corrupt administration that had plagued the people for a decade." [35] This was before the understanding clause was invented. The solution for the Negro problem devised by the Convention was to transfer powers to the Governor from the legislature and the police juries (county commissioners).[36] The public accommodations section and most of the provisions in the 1868 Constitution favorable to Negroes were eliminated, but the Constitution of 1879 did not restrict the Negro's right to vote. This may have been because of fear of another federal intervention or because the Negro-White unification movement under General Beauregard had collapsed.[37] Article 188 of that Constitution provided, "No qualification of any kind for suffrage or office, nor any restraint upon the same, on account of race, color or previous condition shall be made by law."

In the eighties and until 1898 Negroes in Louisiana continued to vote and to have their vote solicited by all parties. This is not surprising. In 1888 there were 127,923 Negro voters and 126,884 white voters on the registration rolls in Louisiana;[38] the population of the state was about fifty per cent Negro.

In the election of 1892, the Louisiana Lottery issue split both parties. Murphy J. Foster, a Democrat, was the successful candidate for governor, but the Negro vote was a decisive factor in Governor Foster's favor in many parishes, a disquieting circumstance necessarily regarded as a mixed blessing. In a four-man race, the Democrats polled only 79,388 votes against a total of 98,647 cast for the Republicans and the newly organized people's Populist party.[39] The next election, in 1896, was the turning point that led directly to the disfranchisement of the Negro in Louisiana. In that election, Governor Foster, running for reelection, defeated John N. Pharr, the choice of a Fusion party of "National" (Lily white) Republicans, Regular (Radi-

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clusion is that in 1878 the Republican party was not given a free ballot in a fair election. * * * A planter—merchant elite re-established itself in the political sun, but it could stay there only through gaining support of farmer groups and a portion of the Negro groups, or through intimidation of either or both." Howard, 82.

[35] Powell, 386; McGinty, 152–180.

[36] "The South had not yet solved the problem of disfranchising the illiterate, ignorant Negro by organic law nonviolative of the Fourteenth and Fifteenth Amendments to the United States Constitution. Until such a solution was arrived at, other means had to be employed intimidation, permission, subtle suggestion that to vote the white man's ticket was most inconducive to the black man's health, call it what you will. * * * [The Constitution of 1879 partly met] the threat of a possible return to black domination * * * [by] the constitutional provision which lodged in the hands of the chief executive of the state extraordinary appointive powers. The Governor named all local and state officials whose election by popular suffrage was not specifically enjoined by the Constitution. He appointed the members of the police jury of every parish, a select body of representative citizens upon whom developed the enacting of laws and ordinances affecting parish affairs, as well as the determining of just what the rate of local taxation would be to meet parish needs." 1 Chambers, 697. See also Evans, 53, Woodward, 54.

[37] General P. G. T. Beauregard was chairman of a biracial committee pledged to obtain political equality for Negroes, desegregated public schools, and desegregated places of public accommodation. Williams, The Louisiana Unification Movement of 1873, 2 Jour.Sou.Hist. 349 (1945).

[38] Statement of Registered Voters in the State of Louisiana.

[39] Report of the Secretary of State 1902, 562.

[fol. 140]

cal) Republicans, Populists, and sugar-growers dissatisfied with low tariffs of 1894. It was a bitterly fought election.[40] "The main issue * * * was the problem of Negro suffrage."[41] Again the Negro vote was decisive in many parishes. Again, Foster, who ran on a "white supremacy" platform, had his heaviest majority in parishes where the Negro registration was the heaviest.[42]

At this point, the handwriting on the wall could be read as easily in Louisiana as it was read earlier in Mississippi: something had to be done about Negro Suffrage. Local issues or national issues could split the Democratic party wide open, giving the Negroes the balance of power. And the political ecology of Louisiana made factionalism inevitable. In Louisiana, as in Mississippi and Alabama, there were, and still are, fundamental social and economic differences between the areas controlled by a plantation economy and the areas controlled by a small farm economy. Two potent

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40. "There are those who maintain to this day that John N. Pharr * * * was really elected. * * * The near success [of the Fusion party] * * * shaped [the] future course [of the Democrats] to the end that elections in Louisiana should be determined by the white vote and not black." 1 Chambers, 698. "The contest over the Governorship in 1896 showed that until the Negro vote was eliminated from the electorate, there was always some danger of the election of a Republican Governor, and made apparent to the Democratic leaders the advisability of a new Constitution." Marr, 229, 246. Judge Robert H. Marr was chairman of the Committee of Seventy, which sponsored the "Convention of the White People [Leagues] of Louisiana" in Baton Rouge, August 24, 1874, and constituted an inner circle of the White League. He called the meeting of the White League to order at Henry Clay Statue on Canal Street just before the Battle of Liberty Place.

41. Howard, p. 99. See also Havard, Herbele, and Howard, The Louisiana Elections of 1960, 23–25 (1963): 1 Fortier, Louisiana (Biographical Edition 1914) 427–432. The legislature had proposed an amendment to the Constitution adding literacy and property requirements for voting. The Fusionists were against it. See Uzee, The Republican Party in the Louisiana Election of 1896, 2 La.Hist. 332 (1961).

42. Pharr carried all but a few of the white parishes in the State; Foster carried 23 of the 27 parishes in which more Negroes than whites were registered to vote. "The Fusionists were sure the Democrats had stuffed the ballot boxes and insured victory." Howard, 99. Every election commissioner in the parishes with Negro majorities was a trusted Foster Democrat. "The Ring opened up a special office in New Orleans to purchase Negro votes at $12.50 per vote." Uzee, 332. In many parishes the number of votes exceeded the number of registered voters. Uzee, 339. The editor of the New Orleans Times-Democrat was uneasy: "It is true that we win these elections but at a heavy cost, and by the use of methods repugnant to our idea of political honesty and which must, in times, demoralize the people of Louisiana." Times-Democrat, January 11, 1898. Woodward comments: "The remedy, declared the reformers was the disfranchisement of the Negro. * * * 'The remedy suggested here is to punish the man who has been injured * * * to prevent the Democratic election officials from stealing their votes'.". Woodward, 327.

As Woodward, Shugg, Howard, Key, Heard and many others have pointed out, the struggle was not only for white supremacy, but a struggle as to "*which whites* should be supreme." Howard, 105. In Louisiana the predominantly white parishes were fighting, not only Negro domination, but also oligarchic domination of the State by New Orleans and the southern parishes. Pharr's greatest strength lay in the hill-farmer parishes of Northern Louisiana, the Florida parishes, and the sugar-bowl. Foster received 90 per cent of the vote in the delta parishes, from Madison south to West Feliciana, and in the upper Red River parishes of Caddo and Bossier. A similar situation existed in Mississippi and Alabama where the cleavage was sharp between the counties in the Black Belt and those in the Hill country. See Howard, 82–105; Havard, Herbele, and Howard, The Louisiana Elections of 1960, 21–25 (1963); Fenton and Vines, Negro Registration in Louisiana, 51 Am.Pol.Sc.Rev. 704 (1957). Uzee, The Republican Party in the Louisiana Election of 1896, 2 La. Hist. 332 (1961). See also 1 Fortier, History of Louisiana (Biographical Edition 1914) 429–432.

additional facts of political life aggravate divisiveness in Louisiana: (1) North Louisiana is solidly Protestant, South Louisiana predominantly Catholic; (2) New Orleans and the rest of the State are like oil and water. See Fenton and Vines, Negro Registration in Louisiana, 51 Am.Pol.Sc.Rev. 704 (1957). By 1898, the moral as well as dollar-and-cents costs of buying victory at the polls were finally more than the purchasers were willing to pay.

Promptly after the important election of 1896, Governor Foster requested the Legislature to call a constitutional convention. Former Governor Nicholls, then Chief Justicé of the Supreme Court of Louisiana, called the Convention to order February 8, 1898. Judge Thomas J. Semmes, Chairman of the Judiciary Committee of the Convention and a former president of the American Bar Association, described the purpose of the Convention: "We [meet] here to establish the supremacy of the white race, and the white race constitutes the Democratic party of this State."[43] The Convention of 1898 "interpreted its mandate from the 'people' to be, to disfranchise as many Negroes and as few whites as possible."[44]

The understanding clause, invented by Mississippi a few years before as an alternative to a literacy test, was strongly advocated by many of the delegates.[45] After considerable debate, however, "*per-*

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[43] Journal of the Constitutional Convention of 1898, 374.

[44] J. A. Snider (Bossier) summed up the Convention's policy, as one to "disfranchise as many Negroes and as few whites as possible". New Orleans Times-Democrat, Feb. 8, 1898. A year later, Thomas J. Kernan, one of the distinguished members of the Convention, used these identical words to describe the object of the Convention. Kernan, The Constitutional Convention of 1898, Proc.La.Bar Ass'n for 1899, at p. 51. Conscious of the moral dilemma and the paradox, Kernan also observed: "By the irony of fate, this ultra conservative convention was called upon as its first chief duty to do the most radical thing known to legislation; to falsify the accepted teaching of history and roll back the wheels of political revolution without bloodshed; to take away the ballot from almost, if not quite, a majority of the voters of the State." Ibid. at 56. "Ernest B. Kruttchnitt * * * on taking the chair, stated that the great purpose for which the Convention had been called together was * * * the elimination of the Negro vote, while granting the suffrage to every white man in the State". Marr, 219. There is a brief but excellent account of the convention in Eaton, The Suffrage Clause of the New Louisiana Constitution, 13 Harv.L.Rev. 279 (1899). See also 3 Fortier, Louisiana (Biographical Ed. 1914) 262–264.

[45] There was never any doubt as to the purpose of the "understanding clause" in any of the Southern States which adopted it. Judge S. S. Calhoun, President of the Mississippi Convention of 1890, wrote, in regard to the Convention: "There was revolution. There is no manhood nor honesty in attempting to disguise. Our people said to the miserable hucksters and their ignorant Negro dupes, 'You shall rule a great State no longer. * * * Come down, get out!' And they did come down and get out and the white people of Mississippi took charge of her polity." Calhoun, The Causes and Events that Led to the Calling of the Constitutional Convention of 1890, 6 Miss.Hist.Soc.Pub. 105 (1902). "Of two ills Mississippi chose the lesser. She has exchanged an organic malady for a functional disorder. The Convention substitutes a desiccated for a diseased electorate. * * * Southern civilization no longer requires evil acts to secure good government." McNeilly, The Constitutional Convention of 1890, 6 Miss.Hist.Soc.Pub. 136–38 (1902). Senator J. Z. George is usually considered as the originator or chief sponsor of the clause. The delegate from Grenada was not enthusiastic about the contribution of Senator J. Z. George to the electoral process: "The mephitic vapour that arises from the section actually stinks in the nostrils of an honest man and makes one feel like stuffing the registration books." The press of the state was filled with editorials and letters which dubbed the provision an "odious section", "a shameless fraud", "a disgraceful absurdity", "the mongrel hotchpotch suffrage scheme", or "the flyblown section". Wharton, The Negro in Mississippi 213 (1947). See also 2 Rowland, Mississippi, The Heart of the South 246–255 (1925). In the South Carolina Convention, the next to adopt the understanding clause, Ben Tillman

suaded that the understanding clause was 'based on fraud', the Louisiana Convention rejected it and invented the 'grandfather clause' ".[46]

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dealt with the problem with characteristic candor: "Some have said there is fraud in this understanding clause. Some poisons in small doses are very salutary and valuable medicines. * * * *The [registration] officer is responsible to his conscience and his God; he is responsible to nobody else.* There is no particle of fraud *or illegality* in *it. It is just showing partiality, perhaps,* (laughter) *or discriminating. Ah: you grin.*" (Emphasis added.) Journal of the Constitutional Convention of the State of South Carolina, 469 (1895). In the Virginia Convention Senator Carter Glass was equally outspoken: "*Discrimination!* Why that is precisely what we propose; that *exactly is what this convention was elected for*". Proceedings and Debates of the Constitutional Convention, 1901–02, II, 3076. See Woodward, 332–35. See also Monnet, The Latest Phase of Negro Disfranchisement, 26 Harv.L.Rev. 42 (1912); Smith, Negro Suffrage in the South, Studies in Southern History and Politics 231–56 (1914); Porter, A History of Suffrage in the United States, 208–18 (1918).

[46] Woodward, 332. Frank P. Stubbs, a delegate from Ouachita, was quoted as saying: "To adopt the understanding clause would be 'to send word' to the registrars to do what you will not do yourself. We are told that it is more honorable to permit highway robbery than to rob a hen roost. I see no honor in either". New Orleans Times-Democrat, March 20, 1898. Mr. Phanor Breazeale of Nachitoches opposed the plan as a certain instrument of fraud. Judge A. V. Coco of Avoyelles wrote to the Picayune, "The very reason of this Convention is, in morals, dishonest, for its purposes are to do in an indirect way what we cannot do directly. * * * This unconstitutional measure we propose to enact through constitutional and honest means. Well, I say it cannot be done through constitutional and honest means." Eaton, The Suffrage Clause in the New Louisiana Constitution 13 Harv. L.Rev. 279, 290 (1899).

In explaining his vote against the grandfather clause, Dr. H. Dickson Bruns, whose father wrote the appeal to the "Citizens of New Orleans" which precipitated the Battle of Liberty Place, voted against Section 5 because he considered it an "unAmerican doctrine that a man shall be a voter because his father or grandfather once possessed that right * * * [It] violates justice, law and morals, and I have faith that such violation inexorably evolves in the fulness of time its own punishment upon the violator, be it a man, a party, or a State". Journal, Constitutional Convention of 1898, 142. William O. Hart, an eminent lawyer, voted against it because he "consider[ed] Section 5 in conflict with the Constitution of the United States". Id. 144 W. H. Wise agreed: "Section 5 is unconstitutional, and vicious, and undemocratic in principle." Id. 147. Charles T. Soniat voted against it because it was "glaringly unconstitutional, undemocratic, and unAmerican. * * * You are discriminating against certain colored citizens in the very teeth of the Constitut[ion] * * * this law, conceived in secret and born in the still hours of last night * * * will breed discord and strife, and will be in a few years execrated by the very parties who now support it on its final passage." Id. 141. Judge Coco thought that the section was a "weak and transparent subterfuge and unmanly evasion of the Constitution of the United States". Id. 146.

The press was highly critical. The New Orleans Times-Democrat, March 8, 1898, reported that "indignation over the suffrage ordinance is limited to no section of the State". Again, March 29, 1898, "North Louisiana joins hands with Central and Southern Louisiana in protest." Part of this protest was based on the fear that too many white persons would also be disfranchised. The Times-Democrat for February 8, 26, 27, 1898 reported that the understanding clause was rejected in favor of the grandfather clause, because most of the delegates feared that it would place too much power in the hands of the registrar.

Both Louisiana Senators, McEnery and Caffrey, expressed the opinion that the Louisiana suffrage provision was unconstitutional. Porter, History of Suffrage in the United States, 213 (1918).

"Most of the discussions of the Convention seemed to have been about Section 5 of Article 197 [the grandfather clause]. Many of the gentlemen expressed the view that that section was in conflict with the Amendments of the Federal Constitution. Mr. Semmes, in voting for the suffrage ordinance, said * * * 'that he had no scruples of conscience as to its morality. * * * In view of the fact that these amendments were never constitutionally adopted, it is hard to understand what ques-

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Under Article 197 of the 1898 Constitution,[47] in order to register, an applicant had to meet educational and property qualifications—unless exempted by the "grandfather" clause. The educational test required the applicant to be able to read and write and demonstrate the ability to do so by filling out the application form without assistance. The property test required the applicant to own property assessed at $300 and to have paid the taxes due on the property.[48] The grandfather clause exempted persons entitled to vote on or before January 1, 1867, or the son or grandson of such person.[49] A similar provision exempted immigrants who came to this country after January 1, 1867. At the time, forty per cent of the registered voters in Louisiana were illiterate and most of the Negroes could not meet the property requirement. The result was disfranchisement of almost all of the Negro voters and of some twenty to thirty thousand white voters.[50] Alcée Fortier, one of Louisiana's most respected historians, writing in 1904, succinctly stated the legislative purpose of the grandfather clause:

> "The purpose of this section, known as the 'Grandfather Clause' was to allow many honorable and intelligent but illiterate white men to retain the right of suffrage, and the purpose of the educational or property qualification was to disfranchise the ignorant negroes who had been a menace to the civilization of the State since the adoption of the Fifteenth Amendment to the Constitution of the United States." 4 Fortier, History of Louisiana 235.

On accepting the chair as President of the Convention, Ernest B. Kruttschnitt, a leading lawyer in New Orleans and a veteran of the White League, did not

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tion of conscience is involved in the advocacy of measures by means of which the operation of those two amendments may be defeated. The sole question is what is the surest and most practicable way to bring about that *defeat*.' Mr. Semmes' prophesy [that it would withstand constitutional attack] has been fully justified by the results. The suffrage provisions of the Constitution of 1898 have worked well. Under the authority of the Primary Election Law, to annex additional qualifications for party suffrage, the Democratic State Central Committee has added the qualification 'white' and thus politically wiped out the Negro". Marr, 245.

[47] Section 5 of Article 197 provides in part: "No male person who was on January 1st, 1867, or at any date prior thereto, entitled to vote under the Constitution or statutes of any State of the United States, wherein he then resided, and no son or grandson of any such person not less than twenty-one years of age at the date of the adoption of this Constitution, and no male person of foreign birth, who was naturalized prior to the first day of January, 1898, shall be denied the right to register and vote in this State by reason of his failure to possess the educational or property qualifications prescribed by this Constitution; provided, he shall have resided in this State for five years next preceding the date at which he shall apply for registration, and shall have registered in accordance with the terms of this article prior to September 1, 1898, and no person shall be entitled to register under this section after said date."

[48] Negro males in Louisiana over twenty-one who owned property in excess of $300, and were thus qualified to register, numbered 5900. Report of the Secretary of State 559 (1902).

The disfranchising character of the complicated application form was also of great importance. This form has a number of traps for the unwary. One requirement is that the applicant state his age in years, months, and days. "It was estimated that not more than ten per cent of negroes of voting age would be able to satisfactorily pass this test." Evans, 56. See Kernan, 57–60.

[49] Persons who qualified under this section before September 1, 1898, when it expired, were: 37,877 whites and 111 Negroes. Report of the Secretary of State 558 (1902). Later, registration under the grandfather clause was extended to September 1, 1913. Act 24 of 1912.

[50] "One fourth of the white voters had been disfranchised or discouraged from registering. Almost 40,000 less white people had registered in 1900 than in 1897." Howard, 103.

mince his words: "We have here no political antagonism and I am called upon to preside over what is little more than a family meeting of the Democratic Party of the State of Louisiana. * * * We are all aware that this Convention has been called * * * principally to deal with one question * * *. to eliminate from the electorate the mass of corrupt and illiterate voters who have during the last quarter century degraded our politics."[51] The Convention voted that no ordinance should be considered until the report of the Committee on Suffrage and Election was finally acted upon by the Convention. Near the end of the Convention, President Kruttchnitt announced:

> "We have not been free; we have not drafted the exact Constitution we should like to have drafted; otherwise we should have inscribed in it, if I know the popular sentiment of the State, Universal White Manhood Suffrage, and the exclusion from the suffrage of every man with a trade of African blood in his veins. * * * What care I whether it be more or less ridiculous or not? Doesn't it meet the case? Doesn't it let the white man vote, and doesn't it stop the negro from voting, and isn't that what we came here for?"[52]

In his message to the legislature, Governor Foster was able to say:

> "The white supremacy for which we have so long struggled at the cost of so much precious blood and treasure, is now crystallized into the Constitution as a fundamental part and parcel of that organic instrument, and that, too, by no subterfuge or other evasions. With this great principle thus firmly imbedded in the Constitution, and honestly enforced, there need be no longer any fear as to the honesty and purity of our future elections."[53]

Following the example of Mississippi, with respect to its 1890 Constitution, Louisiana did not submit the 1898 Constitution to the vote of the people.[54]

To make the disfranchisement effective, the legislature directed a complete new registration of all voters. Registration rolls before and after adoption of the Constitution show the prompt effect the grandfather clause had on Negro voters.

	January 1, 1897	March 17, 1900
Number of Negro Voters	130,344	5,320
Number of White Voters	164,088	125,437

The drop in Negro registration continued, so that by 1910 only 730 or less than 0.5 per cent of the adult male Negroes were registered. In the sixty parishes then in existence, there were no Negroes registered in twenty-seven parishes and only one Negro registered in each of another nine parishes. Only ten parishes had more than ten Negro registered voters each. By 1918, when there were sixty-four parishes, thirty-seven parishes had no Negroes registered. Eight other parishes had only a single Negro on the voter registration rolls.[55] "With the adoption of the Constitution of 1898, Louisiana became in fact and practice a white man's state as far as its politics went."[56]

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[51] Journal of the Constitutional Convention, 9.

[52] Journal of the Constitutional Convention, 380.

[53] La. Senate Journ. 1898, 33-35.

[54] The Constitution of 1898 was called under an act of the Legislature which was voted upon by the people, who, in so voting, agreed that the Convention might declare the Constitution adopted without referring it back again to the people. "This act * * * is a curiosity among the acts calling constitutional conventions." Eaton, The Suffrage Clause in the New Constitution of Louisiana, 13 Harv.L.Rev. 279 (1899). The "only constitutions wholly submitted to the people in a proper election were those in 1845 and 1852." Hart, The Quar. Constitutions of Louisiana, 3 La. Hist. 750, 782 (1921). The Constitution of 1879 was submitted to the people for ratification or rejection.

[55] These figures and most of the others used in this opinion are taken from Reports of the Secretary of State, compiled

The 1913 Constitution did not change the suffrage provisions of the 1898 Constitution.

In 1915, in *Guinn v. United States*, the Supreme Court declared the Oklahoma grandfather clause unconstitutional. Chief Justice Edward Douglass White, of Louisiana, who fought with "Louisiana's Own" at the Battle of Liberty Place[57] and was the campaign manager for Governor Nicholls in 1888, wrote the opinion.

Against this background, a constitutional convention was called in 1921. Although there were several good reasons for Louisiana to revise its constitution, it was well understood, as reported in the New Orleans Times-Picayune: "Revision of the suffrage provision [was] necessary because the United States Supreme Court [had] declared the famous 'grandfather clause' invalid. * * * Already several substitutes have been proposed, among them the 'understanding clause' from Mississippi * * * and the plan of Ex-Governor R. G. Pleasant to confine the right of suffrage to those who inhabited the earth North of the twentieth degree of North latitude prior to October 12, 1492, when Columbus discovered America. The purpose of his plan is to shut out the Negro."[58]

[16, 17] We are handicapped in studying the legislative history of the Constitution of 1921 because, at the request of Ruffin G. Pleasant, the former Governor, who was Chairman of the Committee on Suffrage and Elections, the Committee met in secrecy and no minutes were kept of any discussion or debate. The newspaper accounts of the proceedings, the next best evidence,[59] quote Gov-

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as "Statements of Registered Voters in the State of Louisiana".

The voters qualified to register in 1900 were as follows:

	White	Negro
Under the "educational" qualification	86,157	4,327
Under the "property" qualification	10,793	916
Under the "grandfather" clause	29,189	0

There should be a mental adjustment for all comparative registration figures in Louisiana to take into account the downward trend of the Negro population in the State. For example, in 1900 Negroes made up about 50 per cent of the population. Today, they make up about 30 per cent of the population of Louisiana.

[56] 1 Chambers, 699.

[57] Landry, 130, 233.

[58] Times-Picayune, February 27, 1921. As early as 1916, in a comment in the first issue of the Southern Law Quarterly, now the Tulane Law Review, M. B. Redman discussed the interpretation test (Mississippi's understanding clause) as a constitutional equivalent of the Louisiana grandfather clause. 1 Sou.L.Quart. 46, 47–48 (1916).

[59] "Historical facts of general and public notoriety may indeed be proved by reputation, and that reputation may be established by historical words of known character and accuracy." Morris v. Harmer's Heirs' Lessee. 1833, 7 Pet. 553, 558, 8 L.Ed. 781. (J. Story)

The United States introduced a large number of certified copies of newspaper articles of the period. The newspaper articles are admissible to show purpose. They are the only contemporaneous reports of the 1921 convention available, except for a few legal writings, because of the Convention's decision to hold secret, unreported meetings and discussions on suffrage. In Hall v. St. Helena Parish School Board, E.D.La.1961, 197 F.Supp. 649, aff'd 1961, 368 U.S. 515, 82 S.Ct. 529, 7 L.Ed.2d 521, this Court turned to newspaper accounts in support of its finding of a racially discriminatory purpose in the adoption of a local option school closing law. In that case we noted: "The sponsors of this legislation, in their public statements, if not in the Act itself, have spelled out its real purpose" (197 F.Supp. 652). In an accompanying footnote, we said: "In Louisiana, as in most states, the legislative debates, committee proceedings, and committee reports are not recorded officially. Going to the next best records, newspapers, we find in the record of this case a mass of contemporary newspaper articles, filed by the plaintiffs and by amicus curiae, bearing on the legislative history of Act 2 and its related measures. Affidavits from the authors of the articles attest their accuracy. In all instances they are part of the official records. Their reliability is evidenced by their sub-

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ernor Pleasant as saying that this was because "there might be one subject coming up for discussion which we would not care to have preserved. * * *"[60] Suffrage was "a delicate question" and the members preferred "not to debate it in the open."[61] No one failed to hear and heed the thunder of the silence.

The Committee first considered and rejected Governor Pleasant's "Christopher Columbus" proposal.[62] The plan finally agreed upon was the plan rejected in 1898 because of its "immorality"—Mississippi's understanding clause, the interpretation test. In reporting the proposal, newspapers of the period consistently referred to it as the Mississippi "understanding" clause, quoting Mr. C. E. Hardin of Vernon Parish and Judge Phillip S. Pugh of Arcadia Parish,[63] and described it as a "substitute" or "replacement" for the illegal grandfather clause.[64] For example, a news report of the Times-Picayune characterized the plan as, "An ordinance designed to plug the hole shot through the suffrage provision when the United States Supreme Court declared the famous 'grandfather' clause invalid". The Negro community had no trouble recognizing the purpose of the test. A large delegation of Negro leaders from New Orleans, Baton Rouge, Shreveport, and the parishes appeared before the committee to plead in vain for the franchise, and for more educational facilities.[65] "The Convention [also] placed the power to remove any registrar in the State in the hands of an *ex officio* board of registration composed of the governor, lieutenant governor, and speaker, a majority of whom were more likely to be white men. Should any registrar show a tendency to administer the new registration tests too liberally, or otherwise to conduct his office in a manner displeasing to the administration, the state board could remove him at will."[66]

When the Committee on Suffrage and Elections finally agreed on the interpretation test, the Baton Rouge Times accurately reported:

> "The grandfather clause is eliminated and there is substituted an understanding and good character clause. * * *"[67]

As Professor Powell said in his study of Louisiana constitutions for the Louisiana Law Institute, "In justice to the Convention, it must be said that even its bitterest critics could not deny that the Negroes were almost completely disfranchised."[68]

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stantial agreement." See Dallas County v. Commercial Union Assurance Co., 5 Cir. 1961, 286 F.2d 388, involving private litigation. See also Davis v. Schnell, S.D. Ala.1949, 81 F.Supp. 872, aff'd 336 U.S. 933, 69 S.Ct. 749, 93 L.Ed. 1093. Cf. Grosjean v. American Press Co., 1936, 297 U.S. 233, 56 S.Ct. 444, 80 L.Ed. 660.

60. New Orleans Times-Picayune, April 3, 1921, p. 1; New Orleans States, March 3, 1921, p. 2.

61. New Orleans Times-Picayune, March 27, 1921, p. 10.

62. New Orleans Times-Picayune, February 27, 1921, p. 8; Looney, Suffrage in the Louisiana Constitution of 1921, 6 Loyola L.Jour. 75, 87 (1925).

63. Times-Picayune, March 14, 1921. The Times-Picayune of March 22, 1921 reported that Judge Pugh "holds that these requirements or qualifications are judicially bombproof."

64. Baton Rouge State Times, May 9, 1921, p. 7; New Orleans Times-Picayune, March 14, 27, 1921, p. 1; Looney, 79. "With regard to suffrage, the principal feature * * * was the addition of the 'reasonable interpretation' and 'understanding' provision of the Mississippi Constitution". Evans, 68.

65. New Orleans States, March 31, 1921, p. 6. As in 1898, when Booker T. Washington pleaded unsuccessfully for the Convention not to disfranchise the Negroes, Bishop R. E. Jones, Dr. J. S. Clark, President of Southern University, John G. Lewis, B. V. Baranco, and Walter L. Cohen had no quarrel with an objective educational requirement.

66. Powell, 485.

67. The (Baton Rouge) State Times, May 9, 1921, p. 7, col. 1. See also New Orleans Times-Picayune, March 27, 1921, p. 1, col. 1.

68. Powell, 443.

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B. As an historical fact, and as appears from the evidence, the interpretation test was rarely, if ever, applied until the early fifties. It was not needed. The Democratic white primary made registration futile for Negroes.[69] The Democratic State Central Committee, acting under authority granted to it by the State, restricted all candidates and voters in the Democratic Party primary elections for state officers to white persons.[70] "[D]ebarment from the nominating process is in effect disfranchisement. Denial of the privilege of participating in primaries also means, essentially, ineligibility to party membership in general and excludes the negro from all party proceedings such as mass meetings, conventions, or caucuses of voters in the precinct and from delegate conventions in larger areas, to say nothing of party offices and candidacies in the party primaries." Weeks, The White Primary, 8 Miss.L.J. 135, 136 (1935).

The white primary not only effectively kept Negroes from voting in the only election that had any significance in the Louisiana electoral process but it also correspondingly depressed Negro registration to insignificantly low numbers. During the period from 1921 to 1946 Negro registration was never in excess of one per cent of the total registered voters, although the Negro population of the state then constituted about one-third of the potential voters. In 1942 only 957 Negroes were registered to vote in Louisiana and no Negroes were registered in fifty-one of the sixty-four parishes of Louisiana.

In 1944, white primaries, even those conducted by a political party and not by the State, were declared unconstitutional. Smith v. Allwright, 1944, 321 U.S. 649, 64 S.Ct. 757, 88 L.Ed. 987.[71] After the demise of the white primary, Negro registration in Louisiana rapidly increased, rising from 1,029 in 1944 to 7,561 in 1946, to 22,576 in 1948, and to 120,000 in 1952.[72] In 1956 there were 161,410 Negro voters, 15 per cent of the total registered vote in Louisiana, the highest percentage of Negro voters in any state in the southeastern region of the country.

The decline and fall of the white primary, the return of Negro soldiers from World War II, the intensified tempo of activity in Negro organizations after the School Segregation Cases in 1954, and the civil rights explosion all worked toward increasing Negro interest in voting. These and correlative factors made

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[69] "Until its nullification by the Supreme Court in 1944, the white primary was a more important component of the system than formal limitations on the right to vote. Negroes were excluded as Negroes from the party primary; they could be legally excluded from the general election only by indirection. Invalidation of the white primary, therefore, brought again into prominence the literacy test and other methods of disfranchisement by indirection." Key, Southern Politics, 555 (1949).

See also Weeks, The White Primary, 8 Miss.L.J. 135 (1935); Weeks, The White Primary: 1944-48, 42 Am.Pol. Sc. R. 500 (1948); Harris, The Quest for Equality 119-125 (1960); Moon, The Negro Vote in the Presidential Election of 1956, 26 Jour. Negro Education 219 (1957); Lubell, The Future of the Negro Voter in the United States, 26 Jour. Negro Education 408 (1957); Nabrit, The Future of the Negro Voter in the South, 26 Jour. Negro Education 418 (1957); Sindler, Huey Long's Louisiana 34 (1956); Ewing, Primary Elections in the South 4 (1957); Note, Negro Disfranchisement, 47 Col.L.Rev. 76, 77 (1947).

[70] Minutes of the Democratic State Central Committee, various meetings, Oct. 6, 1931 to Oct. 7, 1947.

[71] See also Nixon v. Herndon, 1924, 273 U.S. 536, 47 S.Ct. 446, 71 L.Ed. 759; United States v. Classic, 1941, 313 U.S. 299, 61 S.Ct. 1031, 85 L.Ed. 1368; Terry v. Adams, 1953, 345 U.S. 461, 73 S.Ct. 809, 97 L.Ed. 1152; Elmore v. Rice, E.D. S.C.1947, 72 F.Supp. 516, aff'd 4 Cir. 1947, 165 F.2d 387, cert. den'd, 333 U.S. 875, 68 S.Ct. 905, 92 L.Ed. 1151.

[72] The number of white voters increased from 711,289 in 1944 to 762,560 in 1946 to 885,437 in 1948. Again, these are from the Secretary of State Reports, Statements of Registered Voters in the State of Louisiana. See also Price, The Negro Voter in the South 1 (1957).

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it imperative for parish registrars in Louisiana to utilize the interpretation test, if the State intended to maintain its policy of segregation, historically indissolubly bound with disfranchisement of Negroes.

C. Immediately following the School Segregation Cases, two strong organizations dedicated to maintaining segregation in Louisiana were established, one by the legislature and one by private persons with official blessing. These two organizations have an important place in the history of the interpretation test. In our study, we see these organizations crossing and recrossing, publicizing and promoting the purpose and function of the test and how best to use it in order to prevent Negro participation in the electoral process. First, in 1954, the Louisiana legislature created a Joint Legislative Committee "to provide ways and means whereby our existing social order shall be preserved and our institutions and ways of life * * * maintained." This was to be accomplished by a program "to maintain segregation of the races in all phases of our life in accordance with the customs, traditions, and laws of our State."[73] This Committee became known as the "Segregation Committee". Its chairman was William M. Rainach, State Senator from Claiborne Parish where there are more Negroes than white persons.[74] Its counsel was William M. Shaw, also from Claiborne Parish. Second, at about the same time or before, Senator Rainach and Mr. Shaw and others organized and incorporated the Association of Citizens Councils of Louisiana to "protect and preserve by all legal means, our historical Southern Social Institutions in all of their aspects."[75] Senator Rainach was the first president of the Citizens Councils. Mr. Shaw was its first secretary. Senator Rainach and Mr. Shaw organized local councils and spearheaded the operations of the Segregation Committee.

In 1956, the Association of Citizens' Councils published a pamphlet, prepared by Mr. Shaw and Senator Rainach, entitled, "Voter Qualification Laws in Louisiana—The Key to Victory in the Segregation Struggle." The pamphlet advocated a two-step program. First, the registration rolls should be purged of "the great numbers of unqualified voters who have been illegally registered", and who "invariably vote in blocks and constitute a menace to the community." Second, registrars should strictly enforce the interpretation test. The pamphlet concludes, "The whole purpose of our registration laws is to prevent the registration of ignorant, 'bloc' voters * * *" The foreword of the pamphlet makes clear who is referred to by the term "bloc" voter:

> "The Communists and the NAACP plan to register and vote every colored person of age in the South * * *. They are not concerned with whether or not the colored bloc is registered in accordance with law."

No stress, no strain:

> "If our laws are intelligently and fairly administered, they will accomplish our purpose automatically."

The "Key to Victory" is subtitled, "A Manual of Procedure for Registrars of Voters, Police Jurors and Citizens Councils." The booklet was the principal topic of discussion at State-sponsored meetings on voter registration attended by registrars and other public officials and was distributed to all persons attending such meetings. The State of Louisiana distributed it to parish registrars, with instructions to follow closely its purpose and intent. Senator Rainach and Mr. Shaw in their dual role as legislative and Citizens' Council leaders were clothed with State authority as they traveled about the State urging and even demanding that the registrars adopt their program.

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[73] La. Legislature, House Concurrent Resolution No. 27 (1954).

[74] The Report of the State Board of Registration for the month ending December 31, 1962, shows that 5,216 white persons and 34 Negroes are registered to vote in Claiborne Parish.

[75] Article II, Act of Incorporation.

Carrying out the first phase of the program, local Citizens Councils and their members conducted extensive purges, principally in 1956–58 in eight parishes throughout the state,[76] under the provisions of the challenge statute, Louisiana R.S. 18:133 (1950) LSA. The evidence shows that primarily Negroes were removed from the rolls, although a few whites were also purged in a token effort to maintain an air of nondiscriminatory treatment. Most registrars cooperated fully with Citizens Council members in conducting the purges when requested to do so. Innumerable white persons whose registration cards showed deficiencies similar to those of the Negroes were not purged. One registrar said in her deposition that in her parish the Citizen Council members conducting the purges corrected the errors they made *on their own registration applications, while at the same time challenging Negroes for similar mistakes.* Many purges were for failure to take the interpretation test, *even though that test had not been administered at the time of the registrant's application.* When contested in federal court, these purges were found to be illegal deprivations of the Negroes' constitutional rights. United States v. McElveen, 1960, E.D.La., 180 F. Supp. 10, modified sub nom. United States v. Thomas, 1960, 362 U.S. 58, 80 S.Ct. 612, 4 L.Ed.2d 535; United States v. Association of Citizens Councils of Louisiana, et al., 1961, W.D.La., 196 F. Supp. 908; United States v. Wilder, 1963, W.D.La., 222 F.Supp. 749.

In late 1958 and early 1959 the Segregation Committee and the State Board of Registration jointly sponsored meetings in each congressional district. Registrars were required to attend; sheriffs, police jurors, and other parochial officials, and officers of citizens councils also attended the meetings. At these meetings the Citizens Council's "Key to Victory" was officially distributed to the registrars. Senator Rainach, at that time still Chairman of the Segregation Committee and President of the Association of Citizens Council, was the chairman at these meetings. Mr. Shaw, at that time was still counsel for the Segregation Committee and still counsel for the Association. They led these meetings, vigorously emphasizing the importance of maintaining segregation.

Senator Rainach would tell the registrars, "The fight for school integration in the South has shifted * * * to a fight for the voters of the Negro masses * *" He pointed out to the registrars that during the Reconstruction Period, when Negroes were permitted to vote, the public schools of Louisiana were integrated, and that, with the Negroes representing 32 per cent of the population of the state, the Negroes could easily do again what they did during the Reconstruction Era, if they should become registered to vote.

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[76] Beginning April 15, 1956, the Citizens Council of Ouachita Parish challenged all 5,782 of the registered Negroes. Of these, all but 595 were stricken from the rolls. The Attorney General of Louisiana sent Mr. Shaw as a special representative to advise the Registrar of voters of Ouachita Parish. As of December 1962, Negro registration in Ouachita was up to 1,038. In Bienville Parish permanent registration was adopted after the purge. All persons who had registered since January 1, 1953, were put on the permanent rolls, except those who were purged. For the Negroes, nearly all of whom were purged, the interpretation test was a prerequisite to registration while for whites, nearly all of whom had registered before it, was not a prerequisite. Thus, as of October 1, 1955, there were 4,825 white persons registered to vote in Bienville Parish out of a white voting population which, according to the 1900 census, was 5,617.

Some parishes required no special effort. For example, in East Carroll, Madison, Tensas, and West Feliciana, there were no registered Negroes and in Claiborne there were only a few on the rolls. In parishes such as Webster, Morehouse, Franklin, and West Carroll, where there was periodic registration, there was no need for a purge because the rolls were automatically cleared. Negro registration in Webster dropped from 1,776 to 83 in 1958. However, there were purges even in some parishes which had periodic registration, such as Lincoln, Red River, and Richland Parishes. Negro registration in Red River dropped from 1,360 to 16 in 1958.

According to Senator Rainach, "In 1897, our forefathers in Louisiana started a program of voter qualification law enforcement, knowing that such a program would provide the solution to their problems." The present voter qualification laws "are adequate to solve our present problems * * *" Senator Rainach stressed that "registrars have become critically important officials * * * they have become the focal point of the solution to our problems."

Mr. Shaw would explain the registrar's part. The *"key to the solution of our whole problem lies in the interpretation of the Constitution," Mr. Shaw told the registrars.* He urged the registrars to require applicants to interpret the constitution and provided them with 25 test cards to be used for this purpose. Mr. Shaw instructed the registrars:

> "[T]he constitutional test and their ability to understand the duties and responsibilities under a republican form of government, which is another one of the tests, is basically a test of a person's understanding, which is native intelligence in that you can educate a fool, but you'd still have nothing but an educated fool when you get through, and he wouldn't be able to qualify. And therefore, *if they were correctly and fairly administered*—that's the key to the whole thing—directed fairly—then it will amount to a test of ability, of a person's understanding, which is native ability. It is not education. Education can merely refine native understanding. If you have no native understanding to start out with, it can't be refined." (Emphasis added.)

Mr. Shaw also told the registrars:

> "Constitutional tests are a test of native intelligence and not 'book learning'. Experience teaches that most of our own white people have this native intelligence while most Negroes do not."

Mrs. Mary C. Flournoy, former Registrar of Winn Parish, gives us some indication of the meaning of "correctly and fairly administer[ing]" the test. She stated that Senator Rainach, while he was Chairman of the Segregation Committee, told her to discriminate on account of race in processing applications:

> "Rainach told me if * * * I can't fail them [Negro applicants] any other way, I could pull those Constitution reading cards on them.
>
> "* * * Rainach wanted me to pull those hard cards on colored people."

D. The Louisiana *Codes Noir* of Colonial times and the Black Codes of the eighteen sixties; the pre-Civil War denial of the vote to Negroes, even to wealthy and educated free men of color; the ebb and flow of Negro rights in the Constitutions of 1864 and 1868; the 1879 transfer of political power from police juries and the legislature to the Governor; the close election of 1892 and the 1896 victory for white supremacy; the grandfather clause and the complicated registration application form in the Constitution of 1898; the invalidity of the grandfather clause and the consequent resort to Mississippi's understanding and interpretation clause; the effectiveness of the white primary as a means of disfranchising Negroes; the invalidity of the white primary and the consequent need to revive enforcement of the interpretation test; the White League and the Citizens' Councils; the Black League and the N.A.A.C.P.; the Battle of Liberty Place in 1874 and the Ouachita voting purge of 1956—these are all related members of a series, all reactions to the same dynamics that produced the interpretation test and speak eloquently of its purpose.

[18] In sum, the interpretation test is another grandfather clause. Its purpose is rooted in the same history. It has the same objective the delegates to the Constitutional Convention of 1898 envisaged for the grandfather clause. It

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is capable of producing the same effective disfranchisement of Negroes today that the grandfather clause produced sixty-five years ago.

V.

[19] Having determined the true reason for the interpretation test in its historical setting, we turn from *why* to *how* the test is used as a discriminatory device.

There are two reasons for a court to consider how a law is administered. The obvious reason is that any regulatory statute may be administered unfairly. If so, the court may enjoin the unfair acts without passing on the validity of the statute. But there is another reason. Just how a law is actually used by those charged with administering it is a proper guide to the purpose of the law and its necessary effect. Here, we find massive evidence that the registrars discriminated against Negroes not as isolated or accidental or unpredictable acts of unfairness by particular individuals, but as a matter of state policy in a pattern based on the regular, consistent, predictable unequal application of the test. This is the inescapable effect of a subjective requirement such as an understanding or interpretation test barren of standards and safeguards, the administration of which rests in the uncontrolled discretion of a registrar.

The United States introduced a great mass of evidence in the record, but with commendable diligence made it digestible by well-prepared indices and well-organized summaries. The evidence of discriminatory application of the interpretation test is especially well documented and supported by testimony with respect to the following parishes: Plaquemines, East Feliciana, Webster, Bienville, Red River, Jackson, and Ouachita.

A. First of all, a Louisiana registrar has the power to use or not to use the interpretation test. The parties to this case stipulated that the test had never been used in the four largest parishes of the state, Caddo, Jefferson, East Baton Rouge, and Orleans. These parishes have almost forty per cent of the total number of registered voters in the State. The United States introduced evidence that the interpretation test was used in twenty-one parishes.[77] No mention was made of the other thirty-nine parishes in the state. The evidence shows that the test was seldom, if ever, applied anywhere in Louisiana before 1954 [78] because, as previously pointed out, until the white primary was invalidated there was no need for the test. This means that the *majority of Louisiana voters now registered under the permanent registration law have never taken the test.*

In the twenty-one parishes where it has been shown that the interpretation test has been used, as of December 31, 1962, only 8.6 per cent of the adult Negroes were registered as against 66.1 per cent of the adult white persons registered. Before the interpretation test was put into use, a total of 25,361 Negroes were registered in the twenty-one parishes using the test. By August 31, 1962, total Negro registration in these parishes was 10,351. During the same period, white registration was not discernibly affected.

B. The decision to enforce the interpretation test more than thirty years after its adoption was accompanied, in almost every parish where the test has been used, by a wholesale purge of Negro voters or by periodic registration so that Negro voters were required to re-register *after* the test came into use. Citizens Council members challenged the registration of large numbers of Negro voters on the ground that they had not satisfied all of the requirements of the Louisiana voter qualification laws at the time they registered. Actually, the challenged Negroes had satisfied all the requirements imposed by the registrar *at the time* they registered. White voters had registered under the same standards and procedures as the Negroes and their registrations suffered from the same alleged deficiencies as the Negroes who were purged. In at least two parishes, Ouachita and East Feliciana, one ground for challenging Negroes was that they had not interpreted or were not able to interpret a constitutional section, even though the test had not been used in either parish before the purge.

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[77] These parishes are: Bienville, Claiborne, DeSoto, East Carroll, East Feliciana, Franklin, Jackson, LaSalle, Lincoln, Morehouse, Ouachita, Plaquemines, Rapides, Red River, Richland, St. Helena, Union, Webster, West Carroll, West Feliciana, and Winn. The Director of the State Board of Registration testified that certain other parishes use the test but he had no personal knowledge of this. He said also that Caddo Parish uses the test; the parties however have agreed that Caddo does not use it.

[78] The depositions were taken of twenty registrars and former registrars who used the interpretation test. The earliest use of the test by any of these registrars was in November 1955. The former registrar of Plaquemines Parish testified that he started using the test late in 1954.

In most parishes where there was a purge, since the Negroes were unable to gain reinstatement in the manner prescribed by Louisiana law, they were required to re-register. And to do so they had to pass the interpretation test. The white voters, not having been challenged, in effect were exempted from the test. The discrimination brought about by the purge and the use of the interpretation test was frozen into the system in parishes such as Bienville, DeSoto, Jackson, Ouachita and Rapides, which have permanent registration. In parishes using periodic registration the purges had a deterrent effect on Negro registration which is still felt.[79]

C. The registrar's whim alone determines which applicants will be tested. The Constitution merely states that applicants "shall *be able to* understand and give a reasonable interpretation" of a section of a constitution. Some registrars, for example, those in LaSalle, Lincoln, and Webster parishes, have interpreted this to mean that the applicant need not actually interpret the constitution, only that he have the ability to do so. The State Board of Registration maintained at one time that the correct interpretation was that the applicant must demonstrate his ability in all cases. It has, however, changed its understanding or interpretation of this very section of the Constitution. After the institution of this suit, the Board prescribed another test, instructing registrars to cease requiring an interpretation. The change in the interpretation given the interpretation-test provision of the Constitution by the State agency charged with enforcing it and the wide variety of interpretations adopted by the registrars reaffirm the impossibility of achieving objective standards for an interpretation of the Constitution acceptable to the State. Pity the applicant asked to interpret the interpretation test!

D. The Louisiana Constitution contains 443 sections, as against 56 sections in the United States Constitution, and is the longest and the most detailed of all state constitutions. The printed copy published by the State, unannotated, contains 600 pages, not counting an index of 140 pages. The evidence clearly demonstrates great abuses in the selection of sections of the constitutions to be interpreted. Some registrars have favorite sections which they apparently use regardless of an applicant's race. Some open a volume containing the United States and Louisiana Constitutions and, like soothsayers seeking divine help from the random flight of birds, require an applicant to interpret the section on the page where the book opens. The Segregation Committee distributed to registrars sets of twenty-four cards, each containing three sections of the Constitution with instructions that they be used in administering the interpretation test. The Registrar of Ouachita Parish used a set of test cards containing sections chosen by the Citizens' Council. The Registrar of Plaquemines used cards and answers prepared by Mr. Leander Perez, District Attorney for the Parish.

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[79] Thus, in Red River Parish very few Negroes have applied since 1956, although there were 1,362 Negroes registered before the purge. As of December 31, 1962, there were 31 Negroes registered.

It is evident from the record that frequently the choice of difficult sections has made it impossible for many Negro applicants to pass. White applicants were more often given easy sections, many of which could be answered by short, stock phrases such as "freedom of speech", "freedom of religion", "States' rights", and so on. Negro applicants, on the other hand, were given parts of the Louisiana Constitution such as Article VII, § 41; Article X, § 1, § 16; Article XIV, § 23, § 24.2.[80]

E. As in the selection process, gross abuses of discretion appear in the evaluation of the interpretations. One rejected Negro applicant stated that the registrar "said what I was saying was right, but it wasn't like she wanted me to say it".

Most of the interpretation tests have been administered orally, thus precluding the use of written records as a check on what the registrar accepted as reasonable interpretations. Nevertheless, the record shows that interpretations far less responsive to the constitutional text selected have been accepted from whites than from Negroes. Compounding this with the fact that Negroes were often given more difficult sections to interpret, the bias in favor of the whites becomes readily apparent.

Some parishes administered written examinations and kept records of the questions asked and the responses accepted. In these examinations the registrar usually employed one or more of several sets of cards containing selected sections of the Constitution and a space for the applicant's interpretation of it. Even the most cursory glance at the records in these parishes underscores the heavy burden under which Negro applicants were laboring. In one set of cards, there is great disparity in the difficulty of the questions asked. This enables the registrar to select cards with simple sections for white applicants and difficult cards for Negroes. There is unmistakable evidence that many white applicants were shown cards with sample answers on them. Some applicants admitted this, and there is even an instance of a white applicant having, by mistake, signed the sample answer card. Negroes were not allowed to see the acceptable answers, let alone copy them. Similarly, the pattern of the answers indicates that the registrars often told white applicants the currently acceptable answers. The phraseology of almost every answer in one parish changed right along with the registrar's change in the wording of the acceptable answer.

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[80] Article 7 reads: "All cases in which the punishment may not be at hard labor shall, until otherwise provided by law, be tried by the judge without a jury. Cases, in which the punishment may be at hard labor, shall be tried by a jury of five, all of whom must concur to render a verdict; cases, in which the punishment is necessarily at hard labor, by a jury of twelve, nine of whom must concur to render a verdict; cases in which the punishment may be capital, by a jury of twelve, all of whom must concur to render a verdict." Article 10 reads: "The power of taxation shall be vested in the Legislature; shall never be surrendered, suspended or contracted away; and all taxes shall be uniform upon the same class of subjects throughout the territorial limits of the authority levying the tax, and shall be levied and collected for public purposes only. No property shall be assessed for more than its actual cash value, ascertained as directed by law, and all tax-payers shall have the right of testing the correctness of their assessments before the courts at the domicile of the assessing authority, or as may be directed by law. The valuation and classification fixed for State purposes shall be the valuation and classification for local purposes; but the taxing authorities of the local subdivision may adopt a different percentage of such valuation for purposes of local taxation." Article 14 reads: "The City of New Orleans by a vote of three-fourths of all members of the Sewerage and Water Board of New Orleans, approved by a vote of three-fourths of all the members of the Board of Liquidation, City Debt, and approved by resolution of the Commission Council, or its successor as the governing body of said municipality, adopted by a vote of two-thirds of all the members of said Council, or governing body, shall have power and is hereby authorized to issue bonds to the amount of Nine Million Dollars ($9,000,000) of said City to be styled 'City of New Orleans, Sewerage, Water and Drainage Serial Gold Bonds', and to bear such rate of interest as the Board of Liquidation, City Debt, may fix from time to time as said bonds are offered for sale, as hereinafter provided, for the purpose of constructing and extending the sewerage, water and drainage system of said City."

Registrars were easily satisfied with answers from white voters. In one instance "FRDUM FOOF SPETGH" was an acceptable response to the request to interpret Article 1, § 3 of the Louisiana Constitution.

On the other hand, the record shows that Negroes whose application forms and answers indicate that they are highly qualified by literacy standards and have a high degree of intelligence have been turned down although they had given a reasonable interpretation of fairly technical clauses of the constitution. For example the Louisiana Constitution, Article X, § 16 provides: "Rolling stock operated in this State, the owners of which have no domicile therein, shall be assessed by the Louisiana Tax Commission, and shall be taxed for State purposes only, at a rate not to exceed forty mills on the dollar assessed value." The rejected interpretation was: "My understanding is that it means if the owner of which does not have residence within the State, his rolling stock shall be taxed not to exceed forty mills on the dollar."

In another instance the registrar rejected the following interpretation of the Search and Seizure provision of the Fourth Amendment: "[N]obody can just go into a person's house and take their belongings without a warrant from the law, and it had to specify in this warrant what they were to search and seize." Another rejected interpretation of the same Amendment by a Negro applicant was: "To search you ,would have to get an authorized authority to read a warrant." The Louisiana Constitution Article I, § 5 provides: "The people have the right peaceably to assemble." A registrar rejected the following interpretation: "That one may assemble or belong to any group, club, or organization he chooses as long as it is within the law."

Each of these incidents *could* conceivably be an isolated event, indicating personal dereliction by one registrar, regrettable, but basically trivial in the general administration of the interpretation test. However, the great number of these and other examples, illustrative of a conscious decision, show conclusively that the discriminatory acts were not isolated or accidental or peculiar to the individual registrar but were part of a pervasive pattern and practice of disfranchisement by discriminatory use of the interpretation test.

The State does not deny that unlimited discretion is vested in the registrars by the laws of Louisiana, but argues that officials must act reasonably and that their decisions are subject to review by district courts. Louisiana, however, provides no effective method whereby arbitrary and capricious action by registrars of voters may be prevented or redressed. Unreviewable discretion was built into the test.

The State Board of Registration recently recognized the arbitrary nature of the test, and, as indicated earlier in this opinion, abandoned its general use after the institution of this suit. However, the Constitution and statutes of Louisiana still require the use of the understanding and interpretation test. And registrars have not entirely abandoned it, despite the institution of the new test. For example, as late as April 1963 the Webster registrar was using the interpretation test because, as she explained, "it's still on the books"; sometimes she gave the citizenship test and sometimes the interpretation test. Voters registering now could be challenged and purged in the future for not taking the interpretation test—should history repeat itself. This is exactly what happened in the middle and late nineteen-fifties.

F. The statistics demonstrate strikingly the effect of resurrection of the interpretation test. A report of the Louisiana Sovereignty Committee, December 14, 1960, boasts:

> "We would like to call your attention to the fact that, during this four year period of time, from 1956 until 1960, 81,214 colored people became of voting age, when the registration figures of colored people actually declined 2,377. Going further during this four year period, we had 114,529 white people who became of voting age and, during this four year period of time, the white registration increased 96,620."

The State of Louisiana accomplished its purpose in the parishes where the constitutional interpretation test was used.[81] In those twenty-one parishes, registration of white persons between 1956 and December 31, 1960, increased from 161,069 to 162,427; registration of Negroes decreased from 25,361 to 10,256.

VI.

We have considered the true reason for the test, how the test was in fact used to accomplish its purpose, and its necessary effect. Now, we apply the law.

[20] No one doubts the broad scope of the State's power to fix reasonable, nondiscriminatory qualifications for voting consistent with the Constitution. Thus, a literacy test bears a reasonable relation to a governmental objective and, if it does not perpetuate past discrimination, is a permissible requirement. "[I]n our society * * * a State might conclude that only those who are literate should exercise the franchise." Lassiter v. Northampton County Bd. of Elections, 1959, 360 U.S. 45, 52, 79 S.Ct. 985, 990, 3 L.Ed.2d 1072. Since Louisiana has the highest illiteracy rate in the nation, the State has even more reason than most states to use a literacy test as a spur to improve the level of the electorate. *But the understanding clause, which is an interpretation test of the constitutions,*

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[81] DISCRIMINATORY EFFECT OF THE INTERPRETATION TEST

PARISH	Voting Age Population (1960)		Registered Voters March 17, 1956		Registered Voters Dec. 31, 1960	
	White	Negro	White	Negro	White	Negro
Bienville	5,617	4,077	5,328	587	5,175	25
Claiborne	6,415	5,032	5,808	17	5,501	29
DeSoto	6,543	6,753	5,640	762	5,822	504
East Carroll	2,990	4.183	3,000	0	2,845	0
East Feliciana	4,200	4.102	2,812	1,361	2.448	82
Franklin	8,954	4,433	8,297	650	8,260	390
Jackson	6,607	2,535	5.457	1,113	5,804	483
LaSalle	6,799	849	6,864	742	6,823	220
Lincoln	9,611	5,723	7,029	1,166	6,928	860
Morehouse	10,311	7,208	9,400	935	7,489	301
Ouachita	40,185	16,377	24,184	5,782	24,789	729
Plaquemines	8,633	2,897	4,541	49	7,160	47
Rapides	44,823	18,141	26,293	3,160	30,362	3,073
Red River	3,294	2,181	3,575	1,512	3,429	27
Richland	7,601	4,608	7,195	740	6,075	263
St. Helena	2,363	2,082	2,555	1,094	2,478	1,243
Union	7,021	3,006	6,895	1,600	5,911	597
Webster	15,713	7,045	12,618	1,769	12,250	130
West Carroll	6,171	1.389	5,660	292	5,182	70
West Feliciana	1.632	2,235	1,272	0	1.303	0
Winn	6.790	2.590	6,449	1.430	6.393	1,093
TOTAL	212.273	107.446	161,069	25,361	162.427	10256

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must not be confused with a literacy test or the two treated as peers. Under Louisiana law, any literacy qualification is met by the requirement that the applicant read to the registrar the Preamble of the United States Constitution. In fact, an applicant need write the Preamble only in his mother tongue, through the dictation of an interpreter if he cannot speak, read, or write English. La.Const. Art. VIII, § 1(c). For good measure, ability to fill out an application form is an additional test of literacy. Moreover, under another statute and provision of the State Constitution, until 1960 *all of the time Louisiana had an interpretation test it allowed illiterates to vote.*[82] (LSA–R.S. 18:36). In November 1962 the State carried 37,865 illiterates on the registration rolls.

We do not have before us a test having a rational relation with the proper governmental objective of giving the vote only to qualified persons. Despite assurances by state officials at the meetings of the registrars that this test measures "only native intelligence", the truth of the matter is that there is nothing in native intelligence that will enable those untutored in constitutional law to give a reasonable interpretation of a highly technical document containing such legal concepts as, for example, venue, due process, the requisites of a criminal indictment, appellate court jurisdiction, and jurisdictional amount. Whatever name the State elects to give to the test, it is not a test of intelligence or citizenship when it enables a registrar to flunk eight Negro school teachers while passing eight illiterate white persons.[83]

[21] As it is administered and as it was designed to be administered, the Louisiana understanding and interpretation test bears no relation to reasonable voting requirements. If a registrar should require an applicant to interpret Article X of the Louisiana Constitution dealing with the distribution between State and parish of *ad valorem* severance taxes on sulphur on the one hand and oil and gas on the other hand, we would find it impossible to hold that an interpretation of this provision served a rational governmental interest in withholding the suffrage from unqualified voters. Short of a government of philosopher-kings,—and no one has ever described Louisiana government in such terms—there is just no correlation between an ability to interpret *any* section of the Louisiana Constitution a registrar may thrust at an applicant for registration and a legitimate State interest in an informed electorate.

The ugly intractable truth is, the nexus is with unlawful discrimination. The ineradicable vice vitiating any relation to a legitimate governmental objective is the raw power vested in the registrar. The unrestricted power which makes the registrars' discriminatory and arbitrary conduct possible comes from the words "understand" and "interpretation." "Understand" and "interpretation" are words without definite meaning in the law. Their purposive ambiguity is the key to the true reason for the test:

> "The terms 'read', 'speak' and 'write', unlike the words 'understand' and 'explain' have considerable objective content, and the quan-

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[82] The distribution of literacy among the registered voters is revealing.

	1940	1960
Number of white voters who write their names	652,271	786,508
Number of Negro voters who write their names	848	116,676
Number of white voters who make mark	50,473	22,056
Number of colored voters who make mark	14	12,804

[83] This bizarre result was reached in East Feliciana.

> tum of administrative decision that could be employed within the framework of such terminology would seem to be negligible. In contrast, * * * in both Louisiana and Mississippi [a would-be] voter is required to give a 'reasonable interpretation' of the Constitution of the United States. The language employed in these tests is similar to that of the Alabama literacy amendment and, because of its vagueness, would appear equally censurable." Note, 49 Col.L.Rev. 1144, 1146 (1949).

The understanding and interpretation of anything is an intimately subjective process. A communication of that understanding is itself subject to the understanding or interpretation of the listener or reader. Even in an atmosphere of mutual cooperation and good will, it is often very difficult for one person to know that the other actually understands what is being said or done. As appears from the evidence, however, in many registration offices in Louisiana the relation between the Registrar and Negro applicants can hardly be described as mutually cooperative. As Senator Rainach and Mr. Shaw, officers of the State of Louisiana, candidly described it, the registration office in Louisiana is "the front line of the battle" to retain a segregated society.

Without help from Senator Rainach or Mr. Shaw—the customs of generations, the mores of the community, the exposure of the individual to segregation from the cradle make it difficult, if not impossible, for a registrar to evaluate objectively what is necessarily a subjective test. We are sensible of the registrar's difficulties—he must live with his friends—but we must recognize that his predilections weight the scales against Negroes and hinder fair administration of an interpretation test or a citizenship test. When neither the Constitution nor the statutes prescribe any standards for the administration of the test, the net result is full latitude for calculated, purposeful discrimination and even for unthinking, purposeless discrimination.

In Davis v. Schnell, S.D.Ala.1949, 81 F.Supp. 872, aff'd memo. 1949, 336 U.S. 933, 69 S.Ct. 749, 93 L.Ed. 1093, a three-judge court (Circuit Judge McCord and District Judges Mullins and McDuffie) had before it the Boswell Amen[illegible] to the Alabama Constitution. [illegible] Court held (as we do in the case before us) that the test was invalid on its face and invalid as administered.

The Boswell amendment, adopted in 1946, permitted registration only of persons who could "understand and explain" any article of the Federal Constitution. The Court dealt at length with the meaning of the word "understand":

> "As pointed out, 'understand' may mean to interpret. [Louisiana uses both words.] This meaning requires an exceedingly high, if not impossible, standard. The distinguished Justices of the Supreme Court of the United States have frequently disagreed in their interpretations of various articles of the Constitution. We learn from history that many of the makers of the Constitution did not understand its provisions; many of them understood and believed that its provisions gave the Supreme Court no power to declare an act of Congress unconstitutional. An understanding or explanation given by the Supreme Court a few years ago as to the meaning of the commerce clause does not apply today. Among our most learned judges there are at least four different understandings and explanations of the Fourteenth Amendment to the Constitution as to whether it made the first eight Amendments applicable to state action. Such a rigorous standard * * * illustrates the completeness with which any individual or group of prospective electors, whether white or Negro, may be deprived of the right of franchise by boards of registrars inclined to apply this one of the innumerable meanings of such

> an indefinite phrase. * * *" 81 F.Supp. at 877–878.

Davis v. Schnell was heard shortly after the adoption of the amendment. The Court was concerned therefore with only a few examples of arbitrary action and concentrated its discussion on the inherent potential for discriminatory and arbitrary administration. The Court held that the understanding clause violated the Fourteenth Amendment:

> "To state it more plainly, the board has the right to reject one applicant and accept another, depending solely upon whether it likes or dislikes the understanding and explanation offered. To state it even more plainly, the board, by the use of the words 'understand and explain,' is given the arbitrary power to accept or reject any prospective elector that may apply, or, to use the language of Yick Wo v. Hopkins, 118 U.S. 356, 366, 6 S.Ct. 1064, 1069, 30 L.Ed. 220, these words 'actually do confer, not a discretion to be exercised upon a consideration of the circumstances of each case, but a naked and arbitrary power to give or withhold consent * * *.' * * * *Such arbitrary power amounts to a denial of the equal protection of the law within the meaning of the Fourteenth Amendment to the Constitution* * * *." 81 F.Supp. at 878.

The Court also held that both the legislative purpose and the administration of the test violated the Fifteenth Amendment:

> "It, thus, clearly appears that [the Boswell] Amendment was intended to be, and is being used for the purpose of discriminating against applicants for the franchise on the basis of race or color. Therefore, we are necessarily brought to the conclusion that the Amendment to the Constitution of Alabama, *both in its object and the manner of its administration, is unconstitutional, because it violates the Fifteenth Amendment. While it is true that there is no mention of race or color in the Boswell Amendment, this does not save it.*" (Emphasis supplied.)

Referring to *Davis v. Schnell*, in *Lassiter v. Northampton Election Board* the Supreme Court has said:

> "In *Davis v. Schnell* * * * the test was the citizen's ability to 'understand and explain' an article of the Federal Constitution. The legislative setting of that provision and the great discretion it vested in the registrar made clear that a literacy requirement was merely a device to make racial discrimination easy."

The Fifth Circuit has recently applied the *Davis v. Schnell* rationale in an action by the United States under 42 U.S.C.A. § 1971(c) against the Board of Registrars of Dallas County, Alabama. United States v. Atkins, 1963, 5 Cir., 323 F.2d 733. In that case the district court held that the prior Board had discriminated against Negroes, the current Board had not. Section 181 of the Alabama Constitution provides that the boards of registrars, in determining the qualifications of applicants, use a questionnaire so worded that the answers would give information necessary or proper to enable the boards to pass upon the qualifications of the applicants. The predecessor section to Section 181 was "the understand and explain" clause struck down in *Davis v. Scnnell*. There was "no set standard for the 'grading' of questionnaires." The Court of Appeals held that "this is precisely the sort of practice condemned in *Davis v. Schnell*" and granted an injunction against the current Board rejecting applicants for errors or omissions in the questionnaire until they presented to the court a "definite set of standards" which would meet the approval of the court.

The State of Louisiana itself, through its authorized legal advisory agency, the Louisiana Law Institute,[84] has questioned the constitutionality of the interpretation

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[84] The Louisiana Law Institute, composed of the State's most distinguished attorneys and law teachers, is chartered by the legislature as "an official advisory

[fol. 159]

test. Act 52 of the Louisiana legislature of 1946 directed the Louisiana Law Institute to prepare a draft or "projet of a Constitution for the State of Louisiana". In 1954 the work was completed and circulated by the State.[85] After a thorough study of the law, the Institute concluded that if the provisions of the Louisiana Constitution establishing an understanding and interpretation test were attacked in court, "Certainly if the same charges could be successfully made concerning the Louisiana provisions [as were made in *Davis v. Schnell*], they would be unconstitutional."[86] The Reporter commented that "although discrimination in administration was found [in Davis v. Schnell], the lower court * * * declared the provision unconstitutional *on its face because it furnished no test or standard to control* administrative discretion". The Institute summarized its position as follows:

> **"1. The Institute in deleting these qualifications was influenced by the following considerations:**
>
> **a. The doubtful constitutionality of the present provisions;**
>
> **b. The arbitrary power they give to registrars of voters, since no objective criteria are provided; and**
>
> **c. The authority given the legislature under the Projet to require additional educational qualifications."**

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law revision commission, law reform agency and legal research agency of the State of Louisiana". LSA-R.S. 24:201 (1950). See Smith, Role of Louisiana Law Institute, 16 La.L.Rev. 691 (1956); Tucker, The Louisiana Law Institute, 1 La.L.Rev. 139 (1938).

[85] In 1956 the voters rejected a constitutional convention.

[86] The Institute's comments on Davis v. Schnell are:

"It is clear that the constitutionality of the provisions listed above is now questionable. It is impossible to predict exactly what the supreme court may require in the future to strike down the 'understanding' and similar clauses. *In the Schnell case it was shown (1) that the purpose in adopting the amendment was to disfranchise the Negroes* and (2) *that, in fact, the amendment was administered in such a way as to disfranchise the Negroes.* [Emphasis added.] Certainly if the same charges could be successfully made concerning the Louisiana provisions, they would be unconstitutional.

"It also seems likely that the court would find a violation of the equal protection clause of the Fourteenth Amendment if only discriminatory administration were proved. [Yick Wo v. Hopkins, 118 U.S. 356, 6 S.Ct. 1064 [30 L.Ed. 220] (1886); William [Williams] v. Mississippi, 170 U.S. 213, 18 S.Ct. 583 [42 L.Ed. 1012] (1898); and Trudeau v. Barnes, [5 Cir.] 65 F.(2d 563 (1933)]. Discrimination as to race or color in administration, together with disfranchisement of the Negro as the original purpose of a constitutional provision, would seem to be contrary to the Fifteenth Amendment.

"Whether constitutional provisions of this character could now stand, even though there is no showing of malicious purpose in adoption or discrimination in administration, is subject to question. In two previous cases involving such 'understanding' clauses, one concerning the Mississippi constitutional provision [Williams v. Mississippi, 170 U.S. 218, 18 S. Ct. 583 [42 L.Ed. 1012] (1898)] and the other involving the Louisiana constitutional provision [Trudeau v. Barnes, [5 Cir.] 65 F.(2d) 563 (1933)], the court held that the constitutional provisions standing alone without proof of discrimination in administration were not unconstitutional as violative of the equal protection clause of the Fourteenth Amendment. However, in the *Schnell* case, although discrimination in administration was found, the lower court did not base its conclusion upon this; *rather, it declared the provision unconstitutional on its face because it furnished no test or standard to control administrative discretion.* Thus, it may be that now such provisions will be held unconstitutional in themselves regardless of whether or not discriminatory administration is found." 3 Projet of a Constitution for the State of Louisiana 40, 41 (1954).

In addition to deleting the interpretation test, the Projet also omits the requirements of (1) filling out the registration application form, (2) the good character clause, and (3) the clause requiring one to understand the duties and obligations of citizenship.

In Darby v. Daniel, S.D.Miss.1958, 168 F.Supp. 170, a three-judge court (Circuit Judge Cameron and District Judges Mize and Clayton) distinguished the Boswell Amendment from a Mississippi provision requiring voters to "understand * * * and give a reasonable interpretation" of "any section of the Constitution" of Mississippi. The *Darby* Court found that, unlike the Boswell Amendment, the Mississippi understanding test did not grant arbitrary power and that there was no evidence of its having been used arbitrarily. In *Darby* the Court declared that it could find no legislative purpose to discriminate and no proof showing racial discrimination.[87] Both are present in the instant case. But *Darby's* actual narrow holding was only that the plaintiff was not qualified and had not exhausted his state remedies.

We cannot see any substantial difference between "understand and explain" (the Boswell Amendment) and "understand * * * and give a reasonable interpretation". As pointed out earlier, the Mississippi understanding clause is the same test the Louisiana delegates to the Constitutional Convention of 1898 could not stomach, which was swallowed without gagging by the stronger-stomached delegates to the Convention of 1921.[88] The dicta in *Darby v. Daniel* must yield to the Supreme Court's holding in *Davis v. Schnell.*

If it may be said that *Trudeau v. Barnes*, 5 Cir. 1933, 65 F.2d 563, upholds the validity of the Louisiana interpretation test, that decision is no longer the law, in the light of *Davis v. Schnell* and the more recent cases. The *Trudeau* court, in 1933, was unable to find that the interpretation test was adopted for the purpose of disfranchising the Negro. However, in *Trudeau* there were important circumstances, not present here, which the court was compelled to consider in reaching a decision. (1) The case was an action at law against the registrar for damages. (2) The case was decided on a motion to dismiss, so that the Court did not have the benefit of evidence of a discriminatory purpose and proof of the discriminatory effect of the interpretation test. (3) At the time the case was decided, the law required the plaintiff to exhaust his administrative remedy. By express provision in the Civil Rights Act, it is no longer necessary for a plaintiff to exhaust state remedies.

Each registrar in Louisiana is the sole judge of whether to apply the interpretation test or not to apply it and whether an applicant qualifies. The judgment is made without guidance, without standards, without limitations imposed by law; the judgment is necessarily subjective. Thus the right to vote depends more upon the caprice of the registrar than upon the possession of measurable qualifications.

A year after the Convention of 1898 rejected the Mississippi understanding clause, Thomas J. Kernan, an outstanding Louisiana lawyer and one of the delegates to the convention, pegged the understanding and interpretation test about as well as it could be pegged:

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[87] In *Darby* the court relied strongly on Williams v. Mississippi, 1898, 170 U.S. 213, 18 S.Ct 583, 42 L.Ed. 1012. That case did not involve a direct attack on the standards for registration. *Williams* was a murder case; the suffrage issue was collateral. The record in *Williams*, as in *Trudeau*, showed no proof of a discriminatory purpose and no discriminatory use of the test. Moreover, the relief sought was registration under the "understanding" standards rather than invalidation of them. See Comment, 72 Yale L.Jour. 770 (1963).

[88] The delegates to the Constitutional Convention of 1921 fully understood that the Convention had adopted the Mississippi understanding clause. Thus, Frank J. Looney, an active member and prominent lawyer, wrote in 1925: "This is the clause known as the 'understanding clause' and has been passed on by the United States Supreme Court in the case of Williams v. Mississippi, 170 U.S. 213 [18 S.Ct. 583, 42 L.Ed. 1012]." Looney, Suffrage in the Constitution of 1921, 6 Loyola L.Jour. 75, 79 (1925). "With regard to suffrage the principal feature * * * is the addition of the 'reasonable interpretation' and 'understanding' provision of the Mississippi Constitution". Berdahl, The Louisiana Constitutional Convention, 15 Amer.Pol. Sc.Rev. 565 (1921). See also Footnotes 45 and 46.

> "The 'understanding clause' was objectionable for many reasons * * *. The adoption of such a plan would have negatived the idea of a return to 'purer methods, wiser laws' in the matter of elections, which, in Louisiana, had grown to be a demand, second in importance only to that for the elimination of the negro from the electorate. *This 'understanding clause' fixes no standard of qualification for the franchise.* It is left to the discretion of the registration officer to select any one of the numerous articles of the Constitution as the test of the voter's 'understanding;' and *there are, therefore, as many different tests as there are articles in the Constitution. This arbitrary power, lodged with the registration officer, practically places his decision beyond the pale of judicial review; and he can enfranchise or disfranchise voters at his own sweet will and pleasure without let or hindrance.* As long as registration officers are mere men, endowed with the same qualities only as their fellow mortals, it will always be unsafe to intrust them with such absolute power. The Convention, in my opinion, acted wisely in refusing to adopt the 'understanding clause.'" Kernan, The Constitutional Convention of 1898 and Its Work, Proc. La.Bar Ass'n for 1899, 54, 59.

[22, 23] The orderly society our Constitution establishes does not permit one man to have uncontrolled power over his fellow citizens. When the State clothes a registrar with omnipotence in deciding the qualifications of voters, it has enacted "not a law, but an attempt to make the arbiter in such a case a law in himself." City of New Orleans v. Palmisano, 1920, 146 La. 518, 83 So. 789, 791. See also State v. Chisesi, 1937, 187 La. 675, 175 So. 458; City of New Orleans v. Levy, 1957, 233 La. 844, 98 So.2d 210; Banjavich v. Louisiana Licensing Bd. for Marine Divers, 1959, 237 La. 467, 111 So.2d 505. When a State constitution gives raw power to a registrar to grant, or to withhold registration as he sees fit, the constitution violates both the due process and the equal protection clauses of the Fourteenth Amendment.

Yick Wo v. Hopkins firmly established the principle that the unequal enforcement of a law will render the results of the enforcement void. In Yick Wo, convictions were overturned without a declaration that the ordinance itself was invalid, assuming possible nondiscriminatory enforcement. But the doctrine of nondiscriminatory enforcement of a law has never been limited to nullifying the effects of the law. Indeed, a Maryland case, extensively quoted in Yick Wo, concerned the invalidation of an ordinance granting unrestrained power to the city government to issue permits for boilers. Baltimore, etc. v. Radecke, 49 Md. 217. City of New Orleans v. Palmisano.

In sum, some laws may never win constitutional approbation, because they have no rational relation to a legitimate governmental objective and because the unrestrained discretion without standards, they grant an officeholder makes them incurably subjective, unreasonable, and incapable of equal enforcement. The understanding and interpretation test is such a law.[39] Although the vote-abridging purpose and effect of the test render it *per se* invalid under the Fifteenth Amendment, it is also *per se* invalid under the Fourteenth Amendment. The vices cannot be cured by an injunction enjoining its unfair application. The necessary relief, therefore, is to declare the test invalid and enjoin its enforcement in Louisiana.

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[39] A keen student of the South and the acknowledged leading authority in the field of Southern politics writes: "Tests supplementary to literacy—ability to understand, explain, or interpret the constitution— * * * [b]orn of a union of constitutional fraud and political ineptitude * * * must in their nature be cloaks for the arbitrary exclusion of voters or tests for the possession of useless knowledge. * * * [I]f any test of understanding were applied at all to any substantial number of citizens of status, the registrars would be hanged

VII.

We come now to consideration of the new citizenship test.

By resolution of August 3, 1962, in compliance with Act 62 of 1962,[90] the State Board of Registration adopted a voter-qualification test, apparently tailored to fit this case should the interpretation test be held unconstitutional. The resolution and the statute do not, and could not, affect the constitutionality of the interpretation test. That test is still the law of the State; so there is no question of mootness. The new requirement rests on an understanding and interpretation of the Constitution of the United States as a whole. The statute requires the Board to prepare "an objective test of citizenship". The Board in its resolution of August third directed the registrars to use the new test, pointing out that Louisiana law prescribes as one of the qualifications for registration that the applicant "shall be of good character, and shall understand the duties and obligations of citizenship under a republican form of government". This qualification has been in the Constitution, unimplemented, since 1898.

The Board's "Instructions to registrars" require an applicant to draw one of ten cards. Each card has six multiple-choice questions, four of which the applicant must answer correctly. There are a total of forty-three different questions in various combinations. This test is considerably more difficult than the "tests" administered to white applicants in the past, in that it requires a comprehension of the theory of the American system of government and a knowledge of specific constitutional provisions.[91] The sort of answers shown by the evidence to have been accepted in the past from white applicants would be unacceptable now under a fair administration of the test. Considering Louisiana's unhappy position as the State with the highest rate of illiteracy and the lowest percentage of citizens with a high school education, the citizenship test can be regarded as a step forward only by those in favor of a severely limited representative government of guardians elected by a small, elite electorate.

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to the nearest lamp post and no grand jury could be found that would return a true bill. Suffrage requirements that cannot be made at least to appear nondiscriminatory in their application will sooner or later fall before the constitutional ban on racial discrimination." Key, Southern Politics 577 (1949).

[90] Act 62 of 1962 amended LSA–R.S. 18:191 to provide that the Board of Registrars "shall prescribe and direct the registrars of voters to propound an objective test of citizenship under a republican form of government * * *." A constitutional amendment to the same effect was adopted at the state-wide general election held on November 6, 1962.

The provisions in the Louisiana Constitution and statutes setting out the interpretation test as a requirement for voter registration remain unchanged. The new constitutional provision amends Article VIII, section 18 while the interpretation test is found in Article VIII, section 1(d); the statutory change adds the new requirement to LSA–R.S. 18:191, leaving untouched LSA–R.S. 18:35, the provision containing the test under attack.

[91] These are some of the questions. No. 2: "Limits are placed on the right to vote by the (a) National Government (b) States (c) Courts." No. 14: "The Articles of Confederation are (a) the Constitution we now have (b) a plan for State government (c) an early plan of government for the original 13 States". No. 16: "Our Constitution has been changed (a) by the President (b) by the Congress and the people (c) by the Supreme Court". No. 35: "The United States Supreme Court is made up of (a) 9 Justices (b) 6 Justices (c) 5 Justices.

It is no small constitutional problem to define "a republican form of government" and determine if the Board's new test measures fairly an applicant's understanding of the "duties and obligations of citizenship under a republican form of government." The Supreme Court had trouble defining a "republican form of government", or so it seemed to say.[92] We reserve judgment therefore on the constitutionality of the new examination. Although we need not pass on the constitutionality of the "citizenship test" itself, we must consider the constitutional effect of this new action on those who have been discriminated against in the past. The object of this suit is not only to prevent future injustices but to rectify past injustices.

In the twenty-one parishes which used the interpretation test, there are few Negroes registered. In all of the parishes this is a result of the policy of initially registering as many white persons and as few Negroes as possible. In some of the parishes it is also a result of past discrimination in purging the rolls of Negro but not white registrants, as a first step; and, as a second step, preventing the re-registration of Negroes (but not white applicants) by an arbitrary administration of the interpretation test. Moreover, we cannot overlook the inhibiting effect of discriminatory registration practices on Negroes everywhere in Louisiana who would otherwise have tried to register.

A major change in the standards of voting qualifications is usually followed by a general re-registration of all voters. This practice prevents previously registered voters, who are unacceptable under the new standards, from remaining on the rolls while those with equal or superior qualifications are denied suffrage. Thus, complete re-registration was used in 1898 to wipe clean the rolls and prevent the re-registration of Negroes under the new standards. Similarly, when the qualifications were formally altered in 1921, the State required the re-registration of all voters. Except in the parishes with periodic registration, there has been no complete re-registration since the interpretation test was resurrected in the middle fifties. In no parish has there been re-registration since the introduction of the new test. Of course, general re-registration would in large measure destroy the continuing usefulness of the past discriminations designed to keep Negroes off of the registration rolls. Yet the new test, or any other procedure more demanding than those previously applied to the white applicants, will have the effect of perpetuating the differences created by the discriminatory practices of the past; most of the potential white voters are on the rolls but few if any of the potential Negro voters are on the rolls. As in *Gomillion v. Lightfoot* and *Lane v. Wilson*, the necessary effect of the new law, regardless of its fair facade, is built-in unconstitutional discrimination.

The cessation of prior discriminatory practices cannot justify the imposition of new and onerous requirements, theoretically applicable to all, but practically affecting primarily those who bore the brunt of previous discrimination. An appropriate remedy therefore should undo the results of past discrimination as well as prevent future inequality of treatment. A court of equity is not powerless to eradicate the effects of former discrimination. If it were, the State could seal into permanent existence the injustices of the past.

A good example of the principle that the abolition of one variety of discrimination does not justify the imposition of another is *Lane v. Wilson*. After the Supreme Court in *Guinn* struck the grandfather clause from the Oklahoma

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[92] Pacific States Tel. & Tel. Co. v. Oregon, 1912, 223 U.S. 118, 32 S.Ct. 224, 56 L.Ed. 377. See also Minor v. Happersett, 1874, 21 Wall. 162, 88 U.S. 162, 22 L. Ed. 627; Texas v. White, 1868, 7 Wall. 700, 74 U.S. 700, 19 L.Ed. 227; Luther v. Borden, 1849, 7 How. 1, 48 U.S. 1, 12 L.Ed. 581; The Federalist 49 (Editor's Introduction; Wright Ed. 1961).

Constitution, Oklahoma required all qualified persons not registered at a time when that clause was in effect to register within twelve days or be permanently disenfranchised. Most of the eligible whites were already registered but most eligible Negroes were not. In declaring unconstitutional the second Oklahoma attempt to bar Negroes from the ballot box, the Supreme Court said:

> "Exemption from this onerous provision was enjoyed by all who had registered in 1914. But this registration was held under the statute which was condemned in the Guinn case. Unfair discrimination was thus retained by automatically granting voting privileges for life to the white citizens whom the constitutional 'grandfather clause' had sheltered while subjecting colored citizens to a new burden." 307 U.S. 276, 59 S.Ct. 876, 83 L.Ed. 1281.

In *Guinn* and *Lane* no past wrongdoing could be imputed to the State because denial of the suffrage to Negroes was legal before 1866—the "freezing" date. The instant case cries louder for relief because the citizenship tests freeze the results of past *illegal* practices.

Recently, in Mississippi, a sheriff, as an ex-officio poll tax collector, had instituted a new policy requiring that individuals paying the poll tax for the first time see him personally. He maintained two offices and was seldom at either office. Speaking for the Fifth Circuit, Judge Bootle, sitting by designation, declared:

> "This new policy, while purporting to apply to Negroes and whites indiscriminately, actually operates to the disadvantage of Negroes on account of their race, as did the previous instruction. Substantially all of the 5,099 white persons of voting age who were liable to pay a poll tax have been permitted to do so while not one of the County's 6,483 Negroes of voting age has been listed as paying the tax. Obviously a blanket requirement that all persons who have never paid the poll tax before, that being a relatively small percentage of white people and all Negroes, who now desire to pay their poll tax for the first time must see the Sheriff personally operates unequally and discriminatorily against the Negroes. * * * Sheriff Dogan's new instructions by necessary result re-creates and perpetuates the very discrimination which prevailed under his former instructions and practices." United States v. Dogan, 1963, 5 Cir. 314 F.2d 767.

In United States v. Atkins, 1963, 5 Cir., 323 F.2d 733, the Court of Appeals for this Circuit, recently quoted Dogan with approval on freezing although it declined to apply the principle:

> "We do not dispute the power of the federal courts to invoke the freezing principle to give relief when necessary. It has been used before in voting cases. * * *"

Insofar as freezing is concerned, *Atkins* is distinguishable from the instant case on the facts and on the relief sought. In *Atkins*, the Court of Appeals noted that (1) it would be feasible to purge the registration lists in Dallas County of "those persons proved by the appellant to have been registered by a procedure which does not meet the minimal requirements of State law"; (2) "[t]he procedure of the Registrars which would have the greatest freezing effect was the practice of not allowing rejected applicants to reapply", a practice the district court has now eliminated; (3) "other [discriminatory] practices soon will be eliminated"; (4) "The only remaining freezing effect could come as a result of differences of practices allowable within the zone of permissible interpretation of Alabama law", but "[w]here * * * or how strictly the Board will interpret Alabama law, is yet to be determined". In *Atkins*, the United States asked the Court to order the Board of Registrars "to register Negroes in the future who possess the qualifications required of whites during the period 1952–1960".

[fol. 165]

The Court objected to making "a permanent fixture in Dallas County" of practices violative of state law. Here, as will be developed later in the opinion, the relief does not have such an effect and is restricted in its application. Moreover, *Atkins* was a "pattern and practice" case under Section 1971 in which the district court held that the current Board of Registrars had not discriminated against Negroes, a finding undisturbed by the Court of Appeals. Finally, in *Atkins*, the question was whether a Board of Registrars should be required to violate a *valid* state law in the future because predecessor boards of that county had violated the *same* law in the past; here, the issue as to the citizenship test is whether a state may raise the standards for registration by enacting a new law which has the inevitable effect of freezing discrimination under an *unconstitutional* prior law. *A fortiori*, *Lane v. Wilson* squarely covers the case before this Court.

In United States v. Lynd, 5 Cir. 1962, 301 F.2d 818, cert. den'd, 1963, 371 U.S. 893, 83 S.Ct. 187, 9 L.Ed.2d 125, the Court entered a temporary injunction, pending appeal, restraining a Registrar from

> "* * * failing or refusing to give to Negro applicants the same privileges as to reviewing their application forms at the time they are filled out and advising Negro applicants of such omissions as appear on their forms as they are now *or heretofore have given to white* applicants under similar circumstances * * *." (Emphasis added.)

After this injunction pending appeal was issued, the Mississippi Legislature amended Section 3215 of the Mississippi Code to make mandatory the requirement that applicants fill out their application form without assistance. The amendment adds the requirement that no application can be approved or applicant registered unless all the blanks on the form are "properly and responsively" filled out by the applicant. July 15, 1963, the Court extended the injunction, pending further proceedings in the District Court, and held the defendant in civil contempt. The Court's two orders of July 15, 1963, restrained the defendant in precisely the same language as that quoted above.

Again, in United States v. Penton, M.D.Ala.1962, 212 F.Supp. 193 the district court found that while prior to February 1961, the Board of Registrars of Montgomery County, Alabama, had not required perfection in completing the application form, as of that date "the Board raised the standard to require a perfect application." 212 F.Supp. at 197. During the earlier period the Board had used the application form "as a tricky examination or test" for Negroes only, and "[i]f a Negro applicant failed to meet the standard required of him, he was denied registration regardless of whether the error or omission on the form was formal, technical, or inconsequential." White applicants, unlike Negroes, had been assisted in manifold ways. With respect to past and future Negro applicants, Judge Johnson applied "standards consistent with past practices." Id. at 200 of 212 F.Supp. *He enjoined the defendants "from using * * * different and more stringent qualification requirements for registration * * * than * * * [those] used by the Board * * since at least January 1, 1956."* United States v. Penton, (M.D.Ala., 1962), 212 F.Supp. 193.

Ross v. Dyer, 5 Cir. 1962, 312 F.2d 191, presented an analogous situation. The Court had before it the brother-and-sister rule of the Houston public school system, a long-standing rule requiring a child to attend the school which his older siblings attended. The rule was one "of long standing applied to white and Negroes alike". This Court observed:

> "On the basis of the evidence which showed it to be a rule of long standing applied to white and Negroes alike, the District Judge in his memorandum opinion reasoned that 'the colored plaintiffs do not seek the same treatment as is afforded white

students, to which they are entitled; in fact, they seek a different, and superior, treatment, by reason of their race. The law does not grant them this.' But we think that logic alone is insufficient to overcome the practical effect of this rule which as to some Negro families perpetuates a segregated system despite the plain purpose of the stair-step plan to ameliorate it. That it applies equally to white and Negro overlooks the fact that as to one group, *compulsory attendance at certain schools has been the result of unconstitutional discrimination. The purpose of the court decree is to eradicate that unconstitutional deprivation of equal protection, no matter how felt or manifested.*" (Emphasis added.)

In insisting that registrars not apply now to Negroes a difficult test which was never applied to white registrants, there is no more compulsion of state officials to violate state law here than there was in *Yick Wo*. Enforcement of the citizenship test at this point would be just as discriminatory against Negroes as enforcement of the San Francisco licensing ordinance directed against Chinese laundrymen would have been in *Yick Wo*. The validity of the ordinance requiring a license for a laundry operated in a wooden building could be asserted only after a relicensing of all laundries on a nondiscriminatory basis. Allowing white laundrymen who had been favored in the past to remain licensed would have perpetuated the discrimination. Thus, although the application of the ordinance was enjoined, the ordinance itself was unconstitutional in the sense that its enforcement had the necessary effect of violating the constitution until the State revoked all outstanding licenses and thereafter issued new licenses nondiscriminatorily.[93] So it is here.

[24] In short, the obligation of the State to abolish its system of racial discrimination in voting registration is not met simply by a process of applying new and higher standards to all future applicants. The new tests discriminate against Negroes of voting age by subjecting them to standards to which the registered applicants (most of whom are white) were not subjected. The promise of evenhanded justice in the future does not bind our hands in undoing past injustices.

VIII.

This brings us to the question of fashioning the necessary remedy.

[25] The power of Congress to adopt Civil Rights measures for protection of the electoral process against debasement by discrimination is expressly granted in the Fifteenth and Fourteenth Amendments. It is no housekeeping power. The sweep of the "appropriate legislation" clause is no less than the sweep of the "necessary and proper" clause. The protection of the right to vote, without regard to race, is important to the individual, but the Nation has the paramount interest in the integrity of the electoral process. These considerations argue against a grudging, narrow remedy. So that the will of Congress will be clear to the courts, Section 1971(*e*) expressly states:

> "This subsection shall in no way be construed as a limitation upon the existing powers of the court."

Thus, in addition to the specific remedy provided in the Civil Rights Act, courts retain an undiminished authority to grant suitable equitable relief that will both rectify past inequities now, without delay, and will prevent future inequities. See State of Alabama v. United States, 5 Cir. 1962, 304 F.2d 583, aff'd 1962, 371 U.S. 37, 83 S.Ct. 145, 9 L.Ed.2d 112.

Remedies suited to past litigation are not appropriate here for several reasons. (1) It is impracticable, if not impossible, and in any event it would create hardships, generate endless litigation, and dislocate registration offices, if a wholesale attempt were made to purge the rolls of white persons improperly registered. (2) It would be extremely difficult to establish who was unconstitutionally purged for failing to take the interpretation test. (3) It would be next to impossible to establish which qualified Negroes were rejected for failure to understand or interpret a constitutional provision to the satisfaction of the registrar, because in many parishes inadequate records are maintained by the registrars. (4) It is completely impossible to ascertain how many and which qualified Negroes were deterred from seeking registration, knowing that they had no chance of succeeding, since other qualified Negroes were kept off the rolls by the practice of racial discrimination. In many respects, the last factor is the most important:

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[93] See Comment, The Federal Voting Referee Plan, 72 Yale L.Jour. 770, 782–84 (1963).

> "Discrimination by a registrar is especially harmful because it is the most effective method for denying the right to vote: it denies the right to vote before an individual has the chance to exercise it, and it bars not only the individual concerned from all elections but inhibits other qualified voters from running the guantlet of discriminatory and humiliating practices by a registrar and his deputies." United States v. Manning, W. D.La.1963, 215 F.Supp. 272, 288.

[26] A nondiscriminatory re-registration of all voters in the State would be the only completely fair and effective means of clearing away the effect of the interpretation test and of applying the new citizenship test. In a general registration the State could require any new, reasonable, non-discriminatory qualifications. However, this Court adheres to the principle that only to the extent clearly necessary should federal courts interfere with established state and local procedures. Accordingly, *as to the citizenship test*, we restrict our order to the twenty-one parishes in which the interpretation test was used and we cast our order so as to afford an option to the State. In any of the twenty-one parishes where the interpretation test was used, there need be no general re-registration. However, until there is a general re-registration of all voters in a parish where the test was used, or until the discriminatory effect of the test has been vitiated to the satisfaction of the court, we enjoin the use of the citizenship test. We narrow our order further, in the interest of equalizing the qualifications for registering, by restricting the injunction against the use of the citizenship test to the registration of those persons who were of voting age and who had the required residence in the parish prior to August 3, 1962; that is the period in which they were exposed to discrimination.

This is a suit in equity. Its purpose is not to punish Louisiana for past activities. Such a purpose would be presumptuous on the part of the Court and offensive to principles of American federalism. Neither is it merely to prevent continued enforcement of unconstitutional provisions of Louisiana law. The prime purpose is to provide a remedy for a *federally* protected right by giving equitable relief: opening the rolls for those to whom the rolls were illegally closed, those who were directly discriminated against by rejection of their applications and those who were inhibited from attempting to register because of known humiliating discriminatory practices of registrars. Finally, we repeat that this decision does not touch upon the constitutionality of the citizenship test as a state qualification for voting. Our order forbids enforcement of the citizenship test until Negro applicants can be judged by the same standards used in qualifying those persons already registered. In that sense the court is cooperating with the State in laying a predicate for the fair application of a voting qualification which the State is now endeavoring to convert into an objective test with ascertainable, although unusually high, standards.

IX.

We summarize our holding. The Court holds that the interpretation test is unconstitutional because of its unlawful purpose, operation, and inescapably discriminatory effect. We enjoin its use in Louisiana To make this decree effective and to exorcise past discrimination, the Court enjoins the use of the "citizenship test" in the Parishes of Bienville, Claiborne, DeSoto, East Carroll, East Feliciana, Franklin, Jackson, LaSalle, Lincoln, Morehouse, Ouachita, Plaquemines, Rapides, Red River, Richland, St. Helena, Union, Webster, West Carroll, West Feliciana, and Winn as to all persons of voting age who had the requisite residence in the parish before August 3, 1962. These are parishes where the registrars used the interpretation test. We enjoin the use of the citizenship test in the named parishes until there has been a general re-registration of all voters in a named parish, or until it has been shown, to the satisfaction of the court, that the interpretation test has lost its discriminatory effect in the parish.

This Court retains jurisdiction for the purpose of allowing the United States to prove and the State to disprove that the interpretation test was used in any of the forty-three parishes not named in the Court's decree, *and for other purposes.*

Formal findings of fact and conclusions of law will be entered at a later date.

WEST, District Judge (dissenting). I respectfully dissent. Reasons to be assigned.

West, District Judge (dissenting) —December 31, 1963

When the majority decision was filed in this case, I announced that I dissented and would assign reasons therefor. This Three Judge Court originally had before it only the question of the constitutionality of Louisiana's constitutional interpretation test, LSA–Const. of 1921, Art. VIII, Sec. 1(d) and LSA–R.S. Title 18, Sec. 35, as used to determine voter qualifications. After this matter had been briefed and submitted, the Government suddenly injected another issue, i. e., the question of the constitutionality of Louisiana's new citizenship test, LSA–R.S. 18:191, as amended by Act 62 of 1962, as a State qualification for voting. I objected to the Court's considering the question of the constitutionality of the new citizenship test on the grounds that no "case or controversy" had arisen thereunder, and that therefore, the question of its constitutionality was not properly before the Court at this time. However, the majority of the Court decided otherwise, and has now held that the constitutional interpretation test, as provided for in Art. VIII, Sec. 1(d) of the La.Const., and in LSA–R.S. Title 18, Sec. 35, is "*per se* invalid under the Fifteenth Amendment", and that "it is also *per se* invalid under the Fourteenth Amendment". The majority further holds that "[t]he vices cannot be cured by an injunction enjoining its unfair application". As to the lately injected issue concerning the constitutionality of the citizenship test, the majority specifically state that "[T]his decision does not touch upon the constitutionality of the citizenship test as a state qualification for voting", but then proceed to forbid the enforcement or use of that test until the State "satisfies this Court" that what it considers "errors of the past" have been corrected.

The majority opinion, including footnotes, comprises some 93 mimeographed pages, most of which is completely immaterial to a decision of this case. When the majority of the Court finds that the constitutional interpretation test is "*per se* invalid", there is, of course, no reason to delve into the past history and usage of the test. For an act to be "*per se*" invalid, it must be invalid in itself; it must be invalid when taken alone; it must be inherently invalid; and it must be invalid in itself without reference to other matters. See Black's Law Dictionary, Fourth Edition. Consequently, if the act is, as the majority holds, invalid *per se*, then it must be invalid on its face, and in itself, and thus the question of the method of its administration is wholly immaterial.

[fol. 169]

That the constitutional interpretation test used by Louisiana is not, however, "per se invalid" becomes quite clear when viewed in light of prior holdings of the United States Supreme Court. It is sometimes difficult to decide whether to rely on the law as the Supreme Court interpreted it a few years ago, or to rely on it as interpreted last week, or to speculate on how they might interpret it tomorrow. However, in this instance, relative to a citizen's right of suffrage, I prefer to believe the law to be as interpreted by the United States Supreme Court on many occasions in the past. In rejecting the proposition that the Fourteenth Amendment added the right to vote to the privileges and immunities of citizenship, the Supreme Court, in Minor v. Happersett, 21 Wall. 162, 177, 88 U.S. 162, 177, 22 L.Ed. 627, said:

> "Certainly, if the Courts can consider any question settled, this one is. For nearly 90 years the people have acted upon the idea that the Constitution, when it conferred citizenship, did not necessarily confer the right of suffrage. If uniform practice, long continued, can settle the construction of so important an instrument as the Constitution of the United States confessedly is, most certainly it has been done here. Our province is to decide what the law is, not to declare what it should be."

Then, in United States v. Reese, 92 U.S. 214, 23 L.Ed. 563, 564, in disposing of the argument that the right to vote was conferred by the Fifteenth Amendment to the United States Constitution, the Supreme Court said:

> "The Fifteenth Amendment does not confer the right of suffrage upon anyone."

And then, in McPherson v. Blacker, 146 U.S. 1, 39, 13 S.Ct. 3, 36 L.Ed. 869, the United States Supreme Court once more recognized the fact that it was within the province of the State, and not the Federal Government, to determine voter qualifications. In the course of its opinion, it said:

> "The right to vote intended to be protected refers to the right to vote as established by the laws and constitution of the State."

In a long line of unbroken jurisprudence beginning in 1874, the United States Supreme Court has consistently recognised that the privilege of voting is conferred upon citizens by the States, and that the United States Constitution does not confer upon anyone the privilege of suffrage. In Pope v. Williams, 193 U.S. 621, 632, 24 S.Ct. 573, 575, 48 L.Ed. 817, the Court said:

> "The privilege to vote in any State is not given by the Federal Constitution, or by any of its amendments. It is not a privilege springing from citizenship of the United States. * * * It may not be refused on account of race, color or previous condition of servitude, but it does not follow from mere citizenship of the United States."

Therefore, insofar as the majority opinion seems to indicate that somehow, the right to vote is guaranteed by the United States Constitution, I respectfully suggest that the majority is in error. In view of the fact that the privilege of voting emanates entirely from the States, and not from the Federal Government, and in view of the fact that the judicial function is properly exercised only by indicating whether or not the State has transcended provisions of the Federal Constitution, it follows, just as the night follows the day, that the role of the Federal Court is not to direct the State in the procedures to be used in registering voters. The Supreme Court has held that the "conditions under which the right of suffrage may be exercised" lies with the States. Lassiter v. Northampton Board of Elections, 360 U.S. 45, 50, 79 S.Ct. 985, 989, 3 L.Ed.2d 1072.

The majority opinion is so lengthy, and involves so many extra-judicial discourses, that it is rather difficult to determine whether it holds that the State constitutional provision and the State Statute establishing the constitutional interpretation test are unconstitutional in themselves, or whether it holds merely that these State laws have been unconstitutionally administered. I must conclude, however, that the majority intended to hold, as they stated near the close of their opinion, that the constitutional interpretation test is "*per se* invalid under the Fifteenth Amendment, and it is also *per se* invalid under the Fourteenth Amendment" of the United States Constitution. This being the case, the prior history of voting requirements in Louisiana, as discussed at great length in the majority opinion, is completely immaterial. If these laws are invalid *per se*, then it matters not how they were administered. No method of administration could validate a law which is invalid *per se*. If, however, the majority intended to hold, contrary to their specific statement concerning invalidity *per se*, that the test is unconstitutional because of improper application, then, in view of their ultimate order in connection with the State's use of the new citizenship test, it is difficult to understand why they did not merely enjoin the improper application of the constitutional interpretation test in the twenty-one Parishes where they found that it had been improperly applied. As will later be noted, they had no hesitancy in dividing the State into sections and holding that the new citizenship test may be applied in some Parishes of the State while it may not be applied in other Parishes. In line with this reasoning, if the constitutional interpretation test is bad only because of its improper use, then the improper use should have been enjoined only in the twenty-one Parishes where it had been improperly applied, and the remaining Parishes of the State should not have been interfered with in their use of that test. If, as stated by the majority, they actually found that the constitutional interpretation test was "invalid per se", they need only to have said so, and then, the application thereof becomes completely irrelevant because as heretofore pointed out, there is no way that an unconstitutional statute may be constitutionally applied. On the other hand, if the statute itself is per se constitutional, then I cannot agree that the "vices cannot be cured by an injunction enjoining its unfair application". I believe that a Court should be most reluctant to declare unconstitutional the statutes and constitutional provisions of a State, and should do so only when the statute and/or the constitutional provision involved is clearly in contravention of the United States Constitution. In Cummings v. Merchants National Bank, 101 U.S. 153, 25 L.Ed. 903, the United States Supreme Court held that a law is not to be held unconstitutional merely because of unfaithful administration. It held that a statute, valid as to one set of facts, may be invalid as to another. That is, its application may be valid or its application may be invalid, notwithstanding the constitutionality of the statute itself. In Kansas City Southern Ry. Co. v. Anderson, 233 U.S. 325, 34 S.Ct. 599, 58 L.Ed. 983, the Supreme Court considered and strongly rejected the contention that to hold that a statute has been unconstitutionally applied under one specific set of facts is tantamount to holding that the statute itself is invalid.

I must therefore respectfully disagree with both the findings and the conclusions of the majority insofar as the validity of the constitutional interpretation test as used in the State of Louisiana is concerned. While it may well be that there have been many instances of improper applications of that test, nevertheless, such improper applications do not, in my opinion, render the laws themselves unconstitutional. If, as I believe to be the case, the constitutional interpretation test is not unconstitutional per se, then only the improper application of the test should have been enjoined. I prefer to believe that the

Supreme Court of the United States meant what it said in the cases which I have cited, and in the many, many other cases that might have been cited to the same effect, namely, that the right remains with the States to decide and declare the requirements for voter registration. I prefer to believe that the function of the Court is merely to decide, in each specific case, whether or not the State has transcended the prohibitions contained in the United States Constitution, and if such is found to be the case, to order, by injunction, if necessary, the termination of such discriminatory practices. I do not believe that it is a proper function of the Court to establish by decree the qualification requirements of voters in the State of Louisiana. That, in my opinion, is precisely what the majority of the Court in this case does.

After concluding that the constitutional interpretation test is "invalid per se", the majority then proceed to a consideration of the validity of the new citizenship test, despite the fact that there were no allegations, nor could there be, that the citizenship test was either unconstitutional or improperly applied. Indeed, the majority specifically states that it does not "touch upon the constitutionality of the citizenship test as a state qualification for voting", but then proceeds to prohibit its use in twenty-one Parishes in the State of Louisiana. It is too elementary to require citation of authority that a statute properly passed by a State Legislature is presumed to be constitutional until such time as it is found to be unconstitutional. This Court has not found the citizenship test to be unconstitutional, and thus, it must, of course, be presumed to be constitutional. If the test is, in fact, constitutional, as it must be considered to be in light of the Court's failure to find it unconstitutional, then, it is a complete mystery to me where the Court finds its authority to enjoin its use. If the majority has found that the constitutional interpretation test is unconstitutional because of its improper use, a conclusion with which I strenuously disagree, then by the same token, I suppose, they could have found that the citizenship test is unconstitutional because of improper use. However, the Court does not find that the citizenship test has been improperly used, and in fact, they have not found it to be unconstitutional in any way whatsoever. Nevertheless, in spite of this fact, the majority takes the position that the use of this new test in the twenty-one Parishes where they considered the constitutional interpretation test to have been improperly applied, would result in continued discrimination unless all voters were purged from the rolls and a complete new re-registration of all voters, using the new citizenship test, were accomplished. The majority decrees that the new citizenship test may not be used "until the discriminatory effect of the test has been vitiated to the satisfaction of the court". In other words, it would seem that in order to comply with this order, the new citizenship test, even though constitutional in every respect, may not be used until the case of every single voter on the rolls in tweny-one Parishes has been submitted to the Court for a determination of whether or not each individual voter has been properly registered to vote, without discrimination. I simply cannot agree that this is a function properly within the ambit of the authority of this Court. Anyone has a right to claim discrimination, and when discrimination has been claimed, he has a right to his day in court. But until such a case or controversy has been presented, the Court simply has no right to intervene. The majority opinion states: "The ordered society our Constitution establishes does not permit one man to have uncontrolled power over his fellow citizens. When the State clothes a registrar with omnipotence in deciding the qualifications of voters, it has enacted 'not a law, but an attempt to make the arbiter in such a case the law in himself.'" The majority opinion would merely refuse to allow the registrar to be "a law in himself", and substitute, in his stead, this Court. This opinion can have no other effect than the taking over by this Court of the functions of the State when it comes to determining the qualifications required for voter privileges. The majority opinion further states: "[T]his Court adheres to the principle that only to the extent clearly necessary should federal courts interfere with established state and local procedures." I can only say that if the majority means what it says in this statement, it must surely have failed to read its own opinion. The majority opinion says, in effect, that whenever a State wishes to alter or improve its voting requirements, it may do so only if it has a complete re-registration of everyone on the rolls throughout the entire State. This proposition has been rejected by the Fifth Circuit Court of Appeals in United States v. Atkins, et al., 323 F.2d 733 (1963). The majority opinion attempts to distinguish the present case from the Atkins case, but in my opinion fails completely to do so. The Atkins case specifically rejects the proposition that a State may not alter its voting requirements without re-registering all voters in the State. They try to distinguish Atkins on the grounds that in that case the question was whether a Board of Registrars should be required to violate a *valid* State law in the future because a predecessor board of that county had violated the *same law* in the past. They then go on to say that the difference between that case and the present case is that the issue here is whether a State may raise the standards for registration by enacting a new law which has the necessary, inescapable effect of freezing discrimination under an *unconstitutional* prior law. They fail to recognize the fact that the law establishing the constitutional interpretation test used by the State of Louisiana and under which the majority now holds there were instances of discrimination, was not an "unconstitutional law" until this present decision was handed down. The very same law had been specifically held to be constitutional in the case of Trudeau v. Barnes, 65 F.2d 563 (C.A.5 1933). All action by the State of Louisiana taken pursuant to that law was, prior to the filing of this decision, taken pursuant to a statute which the Federal Court, Fifth Circuit, had specifically held to be constitutional. In the Trudeau case the Court said:

> "It is at once apparent that the clause of the State Constitution which is under attack applies to all voters alike, denies to none of them the equal protection of the laws, does not undertake to deny or abridge the right of citizens of the United States to vote on account of race, color, or previous condition of servitude. It is difficult to conceive how this clause can be said to violate either the Fourteenth or the Fifteenth Amendment. It lays down but one test, that of intelligence, which applies uniformly and without discrimination to voters of every race and color. * * * The Louisiana Constitution protects every citizen who desires to register from being arbitrarily denied that right by the registrar of voters by giving the applicant a right to apply without delay and without expense to himself to the trial court for relief, to submit his qualifications to vote to a jury, and to have them finally passed upon by an appellate court. It is idle to say that the defendant as registrar had the arbitrary power to deny plaintiff the right to vote. We cannot say, and refuse to assume, that, if the plaintiff had pursued the administrative remedy that was open to him, he would not have received any relief to which he was entitled. * * *"

Consequently, the distinction attempted to be drawn by the majority to distinguish the Atkins case is simply not valid. The effect of the majority order in this case, that the State of Louisiana may not use the new citizenship test in the twenty-one Parishes involved, is to order the State to violate an existing, valid law until this Court tells them that they need no longer violate it. The citizenship test, as of now, is valid and has not been held invalid by any court, including this one. Therefore, for this Court now to order the State to refrain from using that test is to order them to violate a valid existing law of the State of Louisiana. In my judgment, the opinion of the majority in this case is just another example of the "personal decreeing" so bitterly criticized by Judge Hutcheson in his dissenting opinion in Lee v. United States of America, (1963), 5 Cir., 322 F.2d 770. I concur completely with the remarks of Judge Hutcheson contained therein.

In brief, I cannot sanction the take over by this Court of the functions of the State whereby this Court attempts to establish, and administer, as well as to adjudicate the State laws relative to voter registration. I believe that this Court should confine its activities to the judicial determination of cases and controversies as obviously contemplated by the limited jurisdictional grant contained in the United States Constitution

I can do no more than to concur with Judge Bell's dissent in Davis v. Board of School Commissioners of Mobile County, 322 F.2d 356, 362 (C.A.5 1963), when he said: "Therefore, I must dissent * * with the admonition that more constitutional rights will be lost than gained in the long run by departure from procedures which have stood the test of time, and which are a part of due process of law as we have heretofore known it," and to concur with Judge Cameron's dissent in Sharp v. Lucky, 252 F.2d 910, 924 (C.A.5 1958), wherein he said: "This sad epoch in our history [post Civil War] was fomented in no small part, by well-intentioned men in too much of a hurry."

I must, for these reasons, respectfully dissent.

PLAINTIFF'S EXHIBIT NO. 6A

RESOLUTION
OF THE
STATE BOARD OF REGISTRATION

WHEREAS, the 1960 constitutional amendment to Article VIII, Section 1, of the State Constitution prescribes new, different and additional qualifications for voting in this state; Act 305 of 1960 prescribes a new form for application for registration of voters; and Act 485 of 1960 provides criminal penalties against Registrars of Voters who fail to comply with all state laws relative to the registration of voters; and,

WHEREAS, the State Board of Registration, created by Article VIII, Section 18, of the State Constitution, has the duty, power and authority under L. R. S. 18:191 etc. to supervise parish Registrars of Voters, to prescribe rules and regulations, forms and documents for use in the operation and administration of the Registrars of Voters' offices and to coordinate the procedures for the registration of voters in accordance with law, and uniform procedures and forms should be used by all the Registrars of Voters throughout the state.

NOW, THEREFORE, BE IT RESOLVED by the State Board of Registration that, in order to have uniform application of the state voter qualification laws in all parishes of the state, the attached standard forms, numbered one through eleven for identification herewith, be adopted to carry out the requirements of Section 1 of Article VIII of the State Constitution as amended, and all parish Registrars of Voters in the state are hereby required to use such forms in addition to the new form for registration of voters prescribed by Act 305 of 1960, in the procedure for registration of voters without exception.

BE IT FURTHER RESOLVED that copies of said forms and instructions to parish Registrars of Voters to comply with the state voter

Secretary of State
Received & filed
10 10 61
J.K. [illegible]

qualification laws be prepared by this Board and distributed to all Registrars of Voters in Louisiana.

CERTIFICATE

We, the undersigned members of the State Board of Registration, created and constituted by Article VIII, Section 18, of the Constitution of Louisiana, as last amended pursuant to Act 622 of 1960, do hereby certify that the above and foregoing Resolution was duly adopted at a meeting of said Board of Registration held at the State Capitol Building in the Parish of East Baton Rouge, State of Louisiana, on the 10th day of October, 1961, at which the undersigned members of said Board of Registration were present and voting.

THUS DONE AND SIGNED at the State Capitol Building in Baton Rouge, Louisiana, on this the 10th day of October, 1961.

Jimmie H. Davis
Governor

CC Aycock
Lieutenant Governor

Speaker of the House of Representatives

CONSTITUTIONAL TESTS FOR REGISTRATION

Form No. 1

From preamble to U. S. Constitution, written by applicant at Registrar's dictation:

Applicant shall read to the Registrar of Voters and give a reasonable interpretation in writing below of the following clauses of the Constitutions:

The people have the right peaceably to assemble (Art. 1 Sec. 5 La. Const.)

No person shall be compelled to give evidence against himself in a criminal case (Art. 1 Sec. 11 La. Const.)

Nor shall any vested rights be divested, unless for purpose of public utility, and for just and adequate compensation previously paid (Art. 4, Sec. 15, La. Const.)

(The above qualification test and a registration application form provided for by Act 305 of 1960, (Form LR-1), were received by me from the .... Parish Registrar of Voters upon my request to register, and I have signed both for acknowledgment and identification with my application to register.)

Date: .... 196.......

....
Applicant for Registration

Ward............ Precinct............ Address............

(Over)

LEGAL REQUIREMENTS FOR REGISTRATION

Section 1 of Article VIII of the Louisiana Constitution, as amended by the voters of the State in 1960, provides that the right to vote in Louisiana shall not exist except under the provisions of the State Constitution, and: That, to be an elector, a citizen shall demonstrate his ability to read and write by the reading and writing from dictation given by the Registrar of any portion of the preamble of the Constitution of the U. S. A., and shall be able to understand and give a reasonable interpretation of any section of the Constitution of the State or of the U. S., except that this provision shall not apply to persons who are registered as of November 8, 1960. That he shall be of good character and shall understand the duties and obligations of citizenship under a republican form of government, and attached to the principles of both Constitutions; and, further, that he shall not have been convicted and sentenced for certain crimes; nor shall he have lived in common law marriage or have had an illegitimate child within the prescribed period.

STATE BOARD OF REGISTRATION RESOLUTION

WHEREAS, the 1960 Constitutional amendment to Article VIII, Section 1, of the State Constitution prescribes new, different and additional qualifications for voting in this state; Act 305 of 1960 prescribes a new form for application for registration of voters; and Act 485 of 1960 provides criminal penalties against Registrars of Voters who fail to comply with all State laws relative to the registration of voters; and

WHEREAS, the State Board of Registration, created by Article VIII, Section 18, of the State Constitution, has the duty, power and authority under L.R.S. 18:191 etc. to supervise parish Registrars of Voters, to prescribe rules and regulations, forms and documents for use in the operation and administration of the Registrars of Voters' offices and to coordinate the procedures for the registration of voters in accordance with law, and uniform procedures and forms should be used by all the Registrars of Voters throughout the state; therefore:

NOW, THEREFORE, BE IT RESOLVED by the State Board of Registration that, in order to have uniform application of the State voter qualification laws in all parishes of the state, the attached standard form be adopted to carry out the requirements of Section 1 of Article VIII of the State Constitution as amended, and all parish Registrars of Voters in the State are hereby required to use this form in addition to the new form for registration of voters prescribed by Act 305 of 1960, in the procedure for registration of voters without exception.

BE IT FURTHER RESOLVED that copies of said forms and instructions to parish Registrars of Voters to comply with the State voter qualification laws be prepared by this Board and distributed to all Registrars of Voters in Louisiana.

(Over)

CONSTITUTIONAL TESTS FOR REGISTRATION

Form No. 2

From preamble to U. S. Constitution, written by applicant at Registrar's dictation:

Applicant shall read to the Registrar of Voters and give a reasonable interpretation in writing below of the following clauses of the Constitutions:

The United States shall guarantee to every state in this Union a republican form of government, (U. S. Const. Art. IV Sec. 4).

The powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively, or to the people (U. S. Const. 10th Amendment)

No law shall be passed to curtail or restrain the liberty of speech or of the press, (Art. 1 No. 3 La. Const.)

(The above qualification test and a registration application form provided for by Act 305 of 1960, (Form LR-1), were received by me from the .... Parish Registrar of Voters upon my request to register, and I have signed both for acknowledgment and identification with my application to register.)

Date: .... 196........ ....

Applicant for Registration

Ward .... Precinct .... Address ....

(Over)

LEGAL REQUIREMENTS FOR REGISTRATION

Section 1 of Article VIII of the Louisiana Constitution, as amended by the voters of the State in 1960, provides that the right to vote in Louisiana shall not exist except under the provisions of the State Constitution, and: That, to be an elector, a citizen shall demonstrate his ability to read and write by the reading and writing from dictation given by the Registrar of any portion of the preamble of the Constitution of the U. S. A., and shall be able to understand and give a reasonable interpretation of any section of the Constitution of the State or of the U. S., except that this provision shall not apply to persons who are registered as of November 8, 1960. That he shall be of good character and shall understand the duties and obligations of citizenship under a republican form of government, and attached to the principles of both Constitutions; and, further, that he shall not have been convicted and sentenced for certain crimes; nor shall he have lived in common law marriage or have had an illegitimate child within the prescribed period.

STATE BOARD OF REGISTRATION RESOLUTION

WHEREAS, the 1960 Constitutional amendment to Article VIII, Section 1, of the State Constitution prescribes new, different and additional qualifications for voting in this state; Act 305 of 1960 prescribes a new form for application for registration of voters; and Act 485 of 1960 provides criminal penalties against Registrars of Voters who fail to comply with all State laws relative to the registration of voters; and

WHEREAS, the State Board of Registration, created by Article VIII, Section 18, of the State Constitution, has the duty, power and authority under L.R.S. 18:191 etc. to supervise parish Registrars of Voters, to prescribe rules and regulations, forms and documents for use in the operation and administration of the Registrars of Voters' offices and to coordinate the procedures for the registration of voters in accordance with law, and uniform procedures and forms should be used by all the Registrars of Voters throughout the state; therefore:

NOW, THEREFORE, BE IT RESOLVED by the State Board of Registration that, in order to have uniform application of the State voter qualification laws in all parishes of the state, the attached standard form be adopted to carry out the requirements of Section 1 of Article VIII of the State Constitution as amended, and all parish Registrars of Voters in the State are hereby required to use this form in addition to the new form for registration of voters prescribed by Act 305 of 1960, in the procedure for registration of voters without exception.

BE IT FURTHER RESOLVED that copies of said forms and instructions to parish Registrars of Voters to comply with the State voter qualification laws be prepared by this Board and distributed to all Registrars of Voters in Louisiana.

(Over)

CONSTITUTIONAL TESTS FOR REGISTRATION Form No. 3

From preamble to U. S. Constitution, written by applicant at Registrar's dictation:

Applicant shall read to the Registrar of Voters and give a reasonable interpretation in writing below of the following clauses of the Constitutions:

Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof, (U. S. Const. 1st. Amendment)

Every person has the natural right to worship God according to the dictates of his own conscience. (Art. 1 Sec. 4, La. Const.)

Any person may speak, write and publish his sentiments on all subjects, being responsible for the abuse of that liberty (Art. 1, Sec. 3, La. Const.)

(The above qualification test and a registration application form provided for by Act 305 of 1960, (Form LR-1), were received by me from the ________________ Parish Registrar of Voters upon my request to register, and I have signed both for acknowledgment and identification with my application to register.)

Date: ________________ 196____

____
Applicant for Registration

Ward ________ Precinct ________ Address ________________________________

(Over)

LEGAL REQUIREMENTS FOR REGISTRATION

Section 1 of Article VIII of the Louisiana Constitution, as amended by the voters of the State in 1960, provides that the right to vote in Louisiana shall not exist except under the provisions of the State Constitution, and: That, to be an elector, a citizen shall demonstrate his ability to read and write by the reading and writing from dictation given by the Registrar of any portion of the preamble of the Constitution of the U. S. A., and shall be able to understand and give a reasonable interpretation of any section of the Constitution of the State or of the U. S., except that this provision shall not apply to persons who are registered as of November 8, 1960. That he shall be of good character and shall understand the duties and obligations of citizenship under a republican form of government, and attached to the principles of both Constitutions; and, further, that he shall not have been convicted and sentenced for certain crimes; nor shall he have lived in common law marriage or have had an illegitimate child within the prescribed period.

STATE BOARD OF REGISTRATION RESOLUTION

WHEREAS, the 1960 Constitutional amendment to Article VIII, Section 1, of the State Constitution prescribes new, different and additional qualifications for voting in this state; Act 305 of 1960 prescribes a new form for application for registration of voters; and Act 485 of 1960 provides criminal penalties against Registrars of Voters who fail to comply with all State laws relative to the registration of voters; and

WHEREAS, the State Board of Registration, created by Article VIII, Section 18, of the State Constitution, has the duty, power and authority under L.R.S. 18:191 etc. to supervise parish Registrars of Voters, to prescribe rules and regulations, forms and documents for use in the operation and administration of the Registrars of Voters' offices and to coordinate the procedures for the registration of voters in accordance with law, and uniform procedures and forms should be used by all the Registrars of Voters throughout the state; therefore:

NOW, THEREFORE, BE IT RESOLVED by the State Board of Registration that, in order to have uniform application of the State voter qualification laws in all parishes of the state, the attached standard form be adopted to carry out the requirements of Section 1 of Article VIII of the State Constitution as amended, and all parish Registrars of Voters in the State are hereby required to use this form in addition to the new form for registration of voters prescribed by Act 305 of 1960, in the procedure for registration of voters without exception.

BE IT FURTHER RESOLVED that copies of said forms and instructions to parish Registrars of Voters to comply with the State voter qualification laws be prepared by this Board and distributed to all Registrars of Voters in Louisiana.

(Over)

CONSTITUTIONAL TESTS FOR REGISTRATION Form No. 4

From preamble to U. S. Constitution, written by applicant at Registrar's dictation:

____

____

Applicant shall read to the Registrar of Voters and give a reasonable interpretation in writing below of the following clauses of the Constitutions:

The right of the people to be secure in their persons, houses, papers and effects, against unreasonable searches and seizures, shall not be violated (U. S. Const. 4th Amendment)

No person shall be compelled to give evidence against himself in a criminal case (Art. 1 Sec. 11 La. Const.)

The military shall be in subordination to the civil power (Art. 1 Sec. 4 La. Const.)

(The above qualification test and a registration application form provided for by Act 305 of 1960, (Form LR-1), were received by me from the________________Parish Registrar of Voters upon my request to register, and I have signed both for acknowledgment and identification with my application to register.)

Date:________________196______ ____________________________

Applicant for Registration

Ward________Precinct________Address________________________

(Over)

[fol. 173i]

LEGAL REQUIREMENTS FOR REGISTRATION

Section 1 of Article VIII of the Louisiana Constitution, as amended by the voters of the State in 1960, provides that the right to vote in Louisiana shall not exist except under the provisions of the State Constitution, and: That, to be an elector, a citizen shall demonstrate his ability to read and write by the reading and writing from dictation given by the Registrar of any portion of the preamble of the Constitution of the U. S. A., and shall be able to understand and give a reasonable interpretation of any section of the Constitution of the State or of the U. S., except that this provision shall not apply to persons who are registered as of November 8, 1960. That he shall be of good character and shall understand the duties and obligations of citizenship under a republican form of government, and attached to the principles of both Constitutions; and, further, that he shall not have been convicted and sentenced for certain crimes; nor shall he have lived in common law marriage or have had an illegitimate child within the prescribed period.

STATE BOARD OF REGISTRATION RESOLUTION

WHEREAS, the 1960 Constitutional amendment to Article VIII, Section 1, of the State Constitution prescribes new, different and additional qualifications for voting in this state; Act 305 of 1960 prescribes a new form for application for registration of voters; and Act 485 of 1960 provides criminal penalties against Registrars of Voters who fail to comply with all State laws relative to the registration of voters; and

WHEREAS, the State Board of Registration, created by Article VIII, Section 18, of the State Constitution, has the duty, power and authority under L.R.S. 18:191 etc. to supervise parish Registrars of Voters, to prescribe rules and regulations, forms and documents for use in the operation and administration of the Registrars of Voters' offices and to coordinate the procedures for the registration of voters in accordance with law, and uniform procedures and forms should be used by all the Registrars of Voters throughout the state; therefore:

NOW, THEREFORE, BE IT RESOLVED by the State Board of Registration that, in order to have uniform application of the State voter qualification laws in all parishes of the state, the attached standard form be adopted to carry out the requirements of Section 1 of Article VIII of the State Constitution as amended, and all parish Registrars of Voters in the State are hereby required to use this form in addition to the new form for registration of voters prescribed by Act 305 of 1960, in the procedure for registration of voters without exception.

BE IT FURTHER RESOLVED that copies of said forms and instructions to parish Registrars of Voters to comply with the State voter qualification laws be prepared by this Board and distributed to all Registrars of Voters in Louisiana.

(Over)

CONSTITUTIONAL TESTS FOR REGISTRATION

Form No. 5

From preamble to U. S. Constitution, written by applicant at Registrar's dictation:

Applicant shall read to the Registrar of Voters and give a reasonable interpretation in writing below of the following clauses of the Constitutions:

The people have the right peaceably to assemble (Art. 1 Sec. 5 La. Const.)

No person shall be compelled to give evidence against himself in a criminal case (Art. 1 Sec. 11 La. Const.)

Any person may speak, write and publish his sentiments on all subjects, being responsible for the abuse of that liberty (Art. 1, Sec. 3, La. Const.)

(The above qualification test and a registration application form provided for by Act 305 of 1960, (Form LR-1), were received by me from the .... Parish Registrar of Voters upon my request to register, and I have signed both for acknowledgment and identification with my application to register.)

Date: ....196.........

....

Applicant for Registration

Ward................Precinct................Address...

(Over)

[fol. 173k]

LEGAL REQUIREMENTS FOR REGISTRATION

Section 1 of Article VIII of the Louisiana Constitution, as amended by the voters of the State in 1960, provides that the right to vote in Louisiana shall not exist except under the provisions of the State Constitution, and: That, to be an elector, a citizen shall demonstrate his ability to read and write by the reading and writing from dictation given by the Registrar of any portion of the preamble of the Constitution of the U. S. A., and shall be able to understand and give a reasonable interpretation of any section of the Constitution of the State or of the U. S., except that this provision shall not apply to persons who are registered as of November 8, 1960. That he shall be of good character and shall understand the duties and obligations of citizenship under a republican form of government, and attached to the principles of both Constitutions; and, further, that he shall not have been convicted and sentenced for certain crimes; nor shall he have lived in common law marriage or have had an illegitimate child within the prescribed period.

STATE BOARD OF REGISTRATION RESOLUTION

WHEREAS, the 1960 Constitutional amendment to Article VIII, Section 1, of the State Constitution prescribes new, different and additional qualifications for voting in this state; Act 305 of 1960 prescribes a new form for application for registration of voters; and Act 485 of 1960 provides criminal penalties against Registrars of Voters who fail to comply with all State laws relative to the registration of voters; and

WHEREAS, the State Board of Registration, created by Article VIII, Section 18, of the State Constitution, has the duty, power and authority under L.R.S. 18:191 etc. to supervise parish Registrars of Voters, to prescribe rules and regulations, forms and documents for use in the operation and administration of the Registrars of Voters' offices and to coordinate the procedures for the registration of voters in accordance with law, and uniform procedures and forms should be used by all the Registrars of Voters throughout the state; therefore:

NOW, THEREFORE, BE IT RESOLVED by the State Board of Registration that, in order to have uniform application of the State voter qualification laws in all parishes of the state, the attached standard form be adopted to carry out the requirements of Section 1 of Article VIII of the State Constitution as amended, and all parish Registrars of Voters in the State are hereby required to use this form in addition to the new form for registration of voters prescribed by Act 305 of 1960, in the procedure for registration of voters without exception.

BE IT FURTHER RESOLVED that copies of said forms and instructions to parish Registrars of Voters to comply with the State voter qualification laws be prepared by this Board and distributed to all Registrars of Voters in Louisiana.

(Over)

CONSTITUTIONAL TESTS FOR REGISTRATION

Form No. 6

From preamble to U. S. Constitution, written by applicant at Registrar's dictation:

____

____

Applicant shall read to the Registrar of Voters and give a reasonable interpretation in writing below of the following clauses of the Constitutions:

The powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively, or to the people
(U. S. Const. 10th Amendment)

No law shall be passed to curtail or restrain the liberty of speech or of the press,
(Art. 1 No. 3 La. Const.)

Every person has the natural right to worship God according to the dictates of his own conscience. (Art. 1 Sec. 4, La. Const.)

(The above qualification test and a registration application form provided for by Act 305 of 1960, (Form LR-1), were received by me from the________________Parish Registrar of Voters upon my request to register, and I have signed both for acknowledgment and identification with my application to register.)

Date:______________196____ ____________________________
Applicant for Registration

Ward______Precinct______Address_____________________________

(Over)

LEGAL REQUIREMENTS FOR REGISTRATION

Section 1 of Article VIII of the Louisiana Constitution, as amended by the voters of the State in 1960, provides that the right to vote in Louisiana shall not exist except under the provisions of the State Constitution, and: That, to be an elector, a citizen shall demonstrate his ability to read and write by the reading and writing from dictation given by the Registrar of any portion of the preamble of the Constitution of the U. S. A., and shall be able to understand and give a reasonable interpretation of any section of the Constitution of the State or of the U. S., except that this provision shall not apply to persons who are registered as of November 5, 1960. That he shall be of good character and shall understand the duties and obligations of citizenship under a republican form of government, and attached to the principles of both Constitutions; and, further, that he shall not have been convicted and sentenced for certain crimes; nor shall he have lived in common law marriage or have had an illegitimate child within the prescribed period.

STATE BOARD OF REGISTRATION RESOLUTION

WHEREAS, the 1960 Constitutional amendment to Article VIII, Section 1, of the State Constitution prescribes new, different and additional qualifications for voting in this state; Act 305 of 1960 prescribes a new form for application for registration of voters; and Act 485 of 1960 provides criminal penalties against Registrars of Voters who fail to comply with all State laws relative to the registration of voters; and

WHEREAS, the State Board of Registration, created by Article VIII, Section 18, of the State Constitution, has the duty, power and authority under L.R.S. 18:191 etc. to supervise parish Registrars of Voters, to prescribe rules and regulations, forms and documents for use in the operation and administration of the Registrars of Voters' offices and to coordinate the procedures for the registration of voters in accordance with law, and uniform procedures and forms should be used by all the Registrars of Voters throughout the state; therefore:

NOW, THEREFORE, BE IT RESOLVED by the State Board of Registration that, in order to have uniform application of the State voter qualification laws in all parishes of the state, the attached standard form be adopted to carry out the requirements of Section 1 of Article VIII of the State Constitution as amended, and all parish Registrars of Voters in the State are hereby required to use this form in addition to the new form for registration of voters prescribed by Act 305 of 1960, in the procedure for registration of voters without exception.

BE IT FURTHER RESOLVED that copies of said forms and instructions to parish Registrars of Voters to comply with the State voter qualification laws be prepared by this Board and distributed to all Registrars of Voters in Louisiana.

(Over)

CONSTITUTIONAL TESTS FOR REGISTRATION Form No. 7

From preamble to U. S. Constitution, written by applicant at Registrar's dictation:

Applicant shall read to the Registrar of Voters and give a reasonable interpretation in writing below of the following clauses of the Constitutions:

Nor shall any state deprive any person of life, liberty, or property, without due process of law (U. S. Const. 14th Amendment)

Any person may speak, write and publish his sentiments on all subjects, being responsible for the abuse of that liberty (Art. 1, Sec. 3, La. Const.)

No person shall be compelled to give evidence against himself in a criminal case (Art. 1 Sec. 11 La. Const.)

(The above qualification test and a registration application form provided for by Act 305 of 1960, (Form LR-1), were received by me from the ______ Parish Registrar of Voters upon my request to register, and I have signed both for acknowledgment and identification with my application to register.)

Date: ______ 196____

______
Applicant for Registration

Ward ______ Precinct ______ Address ______

(Over)

[fol. 173o]

LEGAL REQUIREMENTS FOR REGISTRATION

Section 1 of Article VIII of the Louisiana Constitution, as amended by the voters of the State in 1960, provides that the right to vote in Louisiana shall not exist except under the provisions of the State Constitution, and: That, to be an elector, a citizen shall demonstrate his ability to read and write by the reading and writing from dictation given by the Registrar of any portion of the preamble of the Constitution of the U. S. A., and shall be able to understand and give a reasonable interpretation of any section of the Constitution of the State or of the U. S., except that this provision shall not apply to persons who are registered as of November 8, 1960. That he shall be of good character and shall understand the duties and obligations of citizenship under a republican form of government, and attached to the principles of both Constitutions; and, further, that he shall not have been convicted and sentenced for certain crimes; nor shall he have lived in common law marriage or have had an illegitimate child within the prescribed period.

STATE BOARD OF REGISTRATION RESOLUTION

WHEREAS, the 1960 Constitutional amendment to Article VIII, Section 1, of the State Constitution prescribes new, different and additional qualifications for voting in this state; Act 305 of 1960 prescribes a new form for application for registration of voters; and Act 485 of 1960 provides criminal penalties against Registrars of Voters who fail to comply with all State laws relative to the registration of voters; and

WHEREAS, the State Board of Registration, created by Article VIII, Section 18, of the State Constitution, has the duty, power and authority under L.R.S. 18:191 etc. to supervise parish Registrars of Voters, to prescribe rules and regulations, forms and documents for use in the operation and administration of the Registrars of Voters' offices and to coordinate the procedures for the registration of voters in accordance with law, and uniform procedures and forms should be used by all the Registrars of Voters throughout the state; therefore:

NOW, THEREFORE, BE IT RESOLVED by the State Board of Registration that, in order to have uniform application of the State voter qualification laws in all parishes of the state, the attached standard form be adopted to carry out the requirements of Section 1 of Article VIII of the State Constitution as amended, and all parish Registrars of Voters in the State are hereby required to use this form in addition to the new form for registration of voters prescribed by Act 305 of 1960, in the procedure for registration of voters without exception.

BE IT FURTHER RESOLVED that copies of said forms and instructions to parish Registrars of Voters to comply with the State voter qualification laws be prepared by this Board and distributed to all Registrars of Voters in Louisiana.

(Over)

CONSTITUTIONAL TESTS FOR REGISTRATION Form No. 8

From preamble to U. S. Constitution, written by applicant at Registrar's dictation:

Applicant shall read to the Registrar of Voters and give a reasonable interpretation in writing below of the following clauses of the Constitutions:

No person shall be deprived of life, liberty or property, except by due process of law.
(Art. 1, Sec. 2 La. Const.)

The Legislature shall provide by law for change of venue in civil and criminal cases
(Art. 7 Sec. 45 La. Const.)

The military shall be in subordination to the civil power
(Art. 1 Sec. 4 La. Const.)

(The above qualification test and a registration application form provided for by Act 305 of 1960, (Form LR-1), were received by me from the ________ Parish Registrar of Voters upon my request to register, and I have signed both for acknowledgment and identification with my application to register.)

Date: ________ 196___ ____________
Applicant for Registration

Ward _____ Precinct _____ Address ____________

173

(Over)

LEGAL REQUIREMENTS FOR REGISTRATION

Section 1 of Article VIII of the Louisiana Constitution, as amended by the voters of the State in 1960, provides that the right to vote in Louisiana shall not exist except under the provisions of the State Constitution, and: That, to be an elector, a citizen shall demonstrate his ability to read and write by the reading and writing from dictation given by the Registrar of any portion of the preamble of the Constitution of the U. S. A., and shall be able to understand and give a reasonable interpretation of any section of the Constitution of the State or of the U. S., except that this provision shall not apply to persons who are registered as of November 8, 1960. That he shall be of good character and shall understand the duties and obligations of citizenship under a republican form of government, and attached to the principles of both Constitutions; and, further, that he shall not have been convicted and sentenced for certain crimes; nor shall he have lived in common law marriage or have had an illegitimate child within the prescribed period.

STATE BOARD OF REGISTRATION RESOLUTION

WHEREAS, the 1960 Constitutional amendment to Article VIII, Section 1, of the State Constitution prescribes new, different and additional qualifications for voting in this state; Act 305 of 1960 prescribes a new form for application for registration of voters; and Act 485 of 1960 provides criminal penalties against Registrars of Voters who fail to comply with all State laws relative to the registration of voters; and

WHEREAS, the State Board of Registration, created by Article VIII, Section 18, of the State Constitution, has the duty, power and authority under L.R.S. 18:191 etc. to supervise parish Registrars of Voters, to prescribe rules and regulations, forms and documents for use in the operation and administration of the Registrars of Voters' offices and to coordinate the procedures for the registration of voters in accordance with law, and uniform procedures and forms should be used by all the Registrars of Voters throughout the state; therefore:

NOW, THEREFORE, BE IT RESOLVED by the State Board of Registration that, in order to have uniform application of the State voter qualification laws in all parishes of the state, the attached standard form be adopted to carry out the requirements of Section 1 of Article VIII of the State Constitution as amended, and all parish Registrars of Voters in the State are hereby required to use this form in addition to the new form for registration of voters prescribed by Act 305 of 1960, in the procedure for registration of voters without exception.

BE IT FURTHER RESOLVED that copies of said forms and instructions to parish Registrars of Voters to comply with the State voter qualification laws be prepared by this Board and distributed to all Registrars of Voters in Louisiana.

(Over)

CONSTITUTIONAL TESTS FOR REGISTRATION Form No. 9

From preamble to U. S. Constitution, written by applicant at Registrar's dictation:

Applicant shall read to the Registrar of Voters and give a reasonable interpretation in writing below of the following clauses of the Constitutions:

All legislative powers herein granted shall be vested in a Congress of the United States, (U. S. Const. Art. 1 No. 1)

The judicial power of the United States, shall be vested in one Supreme Court, and in such inferior Courts as the congress may from time to time ordain and establish (U. S. Const. Art. III Sec. 1)

The people have the right peaceably to assemble (Art. 1 Sec. 5 La. Const.)

(The above qualification test and a registration application form provided for by Act 305 of 1960, (Form LR-1), were received by me from the .... Parish Registrar of Voters upon my request to register, and I have signed both for acknowledgment and identification with my application to register.)

Date: .... 196 ......

....
Applicant for Registration

Ward .... Precinct .... Address ....

(Over)

LEGAL REQUIREMENTS FOR REGISTRATION

Section 1 of Article VIII of the Louisiana Constitution, as amended by the voters of the State in 1960, provides that the right to vote in Louisiana shall not exist except under the provisions of the State Constitution, and: That, to be an elector, a citizen shall demonstrate his ability to read and write by the reading and writing from dictation given by the Registrar of any portion of the preamble of the Constitution of the U. S. A., and shall be able to understand and give a reasonable interpretation of any section of the Constitution of the State or of the U. S., except that this provision shall not apply to persons who are registered as of November 8, 1960. That he shall be of good character and shall understand the duties and obligations of citizenship under a republican form of government, and attached to the principles of both Constitutions; and, further, that he shall not have been convicted and sentenced for certain crimes; nor shall he have lived in common law marriage or have had an illegitimate child within the prescribed period.

STATE BOARD OF REGISTRATION RESOLUTION

WHEREAS, the 1960 Constitutional amendment to Article VIII, Section 1, of the State Constitution prescribes new, different and additional qualifications for voting in this state; Act 305 of 1960 prescribes a new form for application for registration of voters; and Act 485 of 1960 provides criminal penalties against Registrars of Voters who fail to comply with all State laws relative to the registration of voters; and

WHEREAS, the State Board of Registration, created by Article VIII, Section 18, of the State Constitution, has the duty, power and authority under L.R.S. 18:191 etc. to supervise parish Registrars of Voters, to prescribe rules and regulations, forms and documents for use in the operation and administration of the Registrars of Voters' offices and to coordinate the procedures for the registration of voters in accordance with law, and uniform procedures and forms should be used by all the Registrars of Voters throughout the state; therefore:

NOW, THEREFORE, BE IT RESOLVED by the State Board of Registration that, in order to have uniform application of the State voter qualification laws in all parishes of the state, the attached standard form be adopted to carry out the requirements of Section 1 of Article VIII of the State Constitution as amended, and all parish Registrars of Voters in the State are hereby required to use this form in addition to the new form for registration of voters prescribed by Act 305 of 1960, in the procedure for registration of voters without exception.

BE IT FURTHER RESOLVED that copies of said forms and instructions to parish Registrars of Voters to comply with the State voter qualification laws be prepared by this Board and distributed to all Registrars of Voters in Louisiana.

(Over)

CONSTITUTIONAL TESTS FOR REGISTRATION

Form No. 10

From preamble to U. S. Constitution, written by applicant at Registrar's dictation:

____

____

Applicant shall read to the Registrar of Voters and give a reasonable interpretation in writing below of the following clauses of the Constitutions:

Every person has the natural right to worship God according to the dictates of his own conscience. (Art. 1 Sec. 4, La. Const.)

No function shall ever be attached to any court of record, or to the judges thereof except such as are judicial (Art. 7 Sec. 3 La. Const.)

Perpetual franchises or privileges shall not be granted to any person or corporation by the State or by any political subdivision there of (Art. 13 Sec. 7 La. Const.)

(The above qualification test and a registration application form provided for by Act 305 of 1960, (Form LR-1), were received by me from the____________________Parish Registrar of Voters upon my request to register, and I have signed both for acknowledgment and identification with my application to register.)

Date:________________196____. ____________________________

Applicant for Registration

Ward________Precinct________Address____________________________

(Over)

[fol. 173v]

LEGAL REQUIREMENTS FOR REGISTRATION

Section 1 of Article VIII of the Louisiana Constitution, as amended by the voters of the State in 1960, provides that the right to vote in Louisiana shall not exist except under the provisions of the State Constitution, and: That, to be an elector, a citizen shall demonstrate his ability to read and write by the reading and writing from dictation given by the Registrar of any portion of the preamble of the Constitution of the U. S. A., and shall be able to understand and give a reasonable interpretation of any section of the Constitution of the State or of the U. S., except that this provision shall not apply to persons who are registered as of November 8, 1960. That he shall be of good character and shall understand the duties and obligations of citizenship under a republican form of government, and attached to the principles of both Constitutions; and, further, that he shall not have been convicted and sentenced for certain crimes; nor shall he have lived in common law marriage or have had an illegitimate child within the prescribed period.

STATE BOARD OF REGISTRATION RESOLUTION

WHEREAS, the 1960 Constitutional amendment to Article VIII, Section 1, of the State Constitution prescribes new, different and additional qualifications for voting in this state; Act 305 of 1960 prescribes a new form for application for registration of voters; and Act 485 of 1960 provides criminal penalties against Registrars of Voters who fail to comply with all State laws relative to the registration of voters; and

WHEREAS, the State Board of Registration, created by Article VIII, Section 18, of the State Constitution, has the duty, power and authority under L.R.S. 18:191 etc. to supervise parish Registrars of Voters, to prescribe rules and regulations, forms and documents for use in the operation and administration of the Registrars of Voters' offices and to coordinate the procedures for the registration of voters in accordance with law, and uniform procedures and forms should be used by all the Registrars of Voters throughout the state; therefore:

NOW, THEREFORE, BE IT RESOLVED by the State Board of Registration that, in order to have uniform application of the State voter qualification laws in all parishes of the state, the attached standard form be adopted to carry out the requirements of Section 1 of Article VIII of the State Constitution as amended, and all parish Registrars of Voters in the State are hereby required to use this form in addition to the new form for registration of voters prescribed by Act 305 of 1960, in the procedure for registration of voters without exception.

BE IT FURTHER RESOLVED that copies of said forms and instructions to parish Registrars of Voters to comply with the State voter qualification laws be prepared by this Board and distributed to all Registrars of Voters in Louisiana.

(Over)

Form No. 11

SAMPLE

APPLICATION FOR REGISTRATION FORM

OFFICE OF REGISTRAR OF VOTERS

Parish of [redacted], State of Louisiana

Ward No.__________
Prect. No.__________
Cert. No.__________

I am a citizen of the United States and of the State of Louisiana.

My name is Mr.—Mrs.—Miss ______________________________ I was born in the State (or country) of ________________, Parish (or county) of ________________, on the ________ day of ____________, in the year ______, I am now ______ years, ______ months and ______ days of age. I have resided in this State since ________________, in this Parish since ________________, and in Precinct No.______, in Ward No.______ of this Parish continuously since ________________. I am not disfranchised by any provisions of the Constitution of this State. The name of the householder at my present address is ________________________ *My occupation is* ________________ *My color is* ________ *My sex is* ________ I am not now registered as a voter in any other Ward or Precinct of this State, except ____________________ *My last registration was in Ward* ________ Precinct ________ Parish ________________. I am now affiliated with the ________________________ Party.

In each of the following items the applicant shall mark through the word "have" or the words "have not" so that each item will show a true statement about the applicant.

I have (have not) been convicted of a felony without receiving a full pardon and restoration of franchise.

I have (have not) been convicted of more than one misdemeanor and sentenced to a term of ninety (90) days or more in jail for each such conviction, other than traffic and/or game law violations, within five years before the date of making this application for registration as an elector.

I have (have not) been convicted of any misdemeanor and sentenced to a term of six (6) months or more in jail, other than traffic and/or game law violations, within one year before the date of making this application for registration as an elector.

I have (have not) lived with another in "common law" marriage within five years before the date of making this application for registration as an elector.

TURN CARD OVER

I have (have not) given birth to an illegitimate child within five years before the date of making this application for registration as an elector. (The provisions hereof shall not apply to the birth of any illegitimate child conceived as a consequence of rape or forced carnal knowledge.)

I have (have not) acknowledged myself to be the father of an illegitimate child within five years before the date of making this application for registration as an elector. I do hereby solemnly swear or affirm that I will faithfully and fully abide by all the laws of the State of Louisiana, so help me God.

Signature____________________

Sworn to and subscribed before me:____________________

(Deputy) Registrar

CHANGE OF ADDRESS

Date________ Address________ Ward No.________ Prect. No.________ Cert. No.________

Date________ Address________ Ward No.________ Prect. No.________ Cert. No.________

Date________ Address________ Ward No.________ Prect. No.________ Cert. No.________

CHANGE OF NAME

I am now Mr.—Mrs.—Miss____________________ Date of change________

Nature of change____________________

REMARKS

The following information forms no part of the application but is for use of the registration records:

Parish of____________, State of Louisiana, Date____________, 19____

Address____________________ Color of eyes________

Mother's first or maiden name____________ Name of employer____________

Property owner________ Tenant________ Boarder________

Plaintiff's Exhibit No. 7

(See Opposite) ☞

[fol. 173y]

PLAINTIFF'S EXHIBIT No. 7

HEARINGS

BEFORE THE

UNITED STATES COMMISSION ON CIVIL RIGHTS

(Emblem)

HEARINGS HELD

IN

NEW ORLEANS, LOUISIANA

September 27, 1960
September 28, 1960
May 5, 1961
May 6, 1961

[fol. 174]

* * * * * * *

TESTIMONY OF MRS. WINNICE J. P. CLEMENT, REGISTRAR OF VOTERS, WEBSTER PARISH, LA.

Vice Chairman STOREY. Have that seat, please, ma'am. For the record, will you please state your name, your age, your residence and occupation?

Mrs. CLEMENT. Winnice J. P. Clement, 61 years old, Minden, La., Registrar of Voters for Webster Parish.

Vice Chairman STOREY. How long have you been in that capacity?

Mrs. CLEMENT. Since September 15, 1940.

Vice Chairman STOREY. 1940?

Mrs. CLEMENT. Yes.

Vice Chairman STOREY. Some 21 years?

Mrs. CLEMENT. Yes.

Vice Chairman STOREY. Have you occupied that position continuously?

Mrs. CLEMENT. Yes.

Vice Chairman STOREY. Do you give full time to it, Mrs. Clement?

Mrs. CLEMENT. Yes, sir.

Vice Chairman **Storey**. And have since you first started to work?

[fol. 175] Mrs. **Clement**. Well, when I first went to work, we were only required to work 2 days a week—

Vice Chairman **Storey**. I see.

Mrs. **Clement**. Except every day before the election.

Vice Chairman **Storey**. Mrs. Clement, the other people have some questions to ask, but you just heard this witness testify. Are you familiar with the incidents to which he refers?

Mrs. **Clement**. Of the four witnesses, I only remember one witness.

Vice Chairman **Storey**. Four witnesses?

Mrs. **Clement**. I remember Willie Mae Allums.

Vice Chairman **Storey**. What do you mean—"four witnesses"?

Mrs. **Clement**. That testified last September.

Vice Chairman **Storey**. What I am getting at: This man, Morgan, testified about the incident with reference to the constitution. Do you remember him—

Mrs. **Clement**. No.

Vice Chairman **Storey**. Coming back to your office?

Mrs. **Clement**. No, sir; I sure do not, because I know so few Negroes in Webster Parish, and I do not remember.

Vice Chairman **Storey**. Do you have an assistant?

Mrs. **Clement**. Yes.

Vice Chairman **Storey**. Who is that?

Mrs. **Clement**. Mrs. Marcella Shaw.

Vice Chairman **Storey**. Does she work there all the time?

Mrs. **Clement**. Oh, she has since the last—I believe October.

Vice Chairman **Storey**. Do you know anything about the rejection of this applicant, Morgan?

Mrs. **Clement**. Well, it's on the file there Mr. Clark and Mr. Amidon copied.

Vice Chairman **Storey**. But you have no independent recollection of these conversations?

Mrs. **Clement**. No, sir; I sure do not.

Vice Chairman **Storey**. Are there other questions you want to ask—either one of you? Mr. Isbell.

Mr. Isbell. Yes, sir. Mrs. Clement, Mr. Clark and Mr. Amidon testified that you had told them that early in 1957 you changed your policy as to the order in which you had applicants fill out the application forms and give them the constitutional test. They said that you told them in the early part of 1957 you would have them fill out an application form first and then give them the constitutional test. They said later in that year you changed the order and started giving them the constitutional test first, and only if they did that successfully would they be given an application form to fill out. Is that correct?

Mrs. Clement. That is correct.

[fol. 176] Mr. Isbell. What was the reason for that change?

Mrs. Clement. Well, I just—we did not have—we weren't required to save the card in that case.

Mr. Isbell. But did you change the order in which the application procedure was conducted?

Mrs. Clement. Yes.

Mr. Isbell. I am not sure that you answered the question why you changed that order. Was there a reason for—

Mrs. Clement. The law did not require us to keep them, and I just quit keeping them and reversed the procedure.

Mr. Isbell. Why did you reverse the procedure?

Mrs. Clement. Well, I just didn't want to keep all the cards.

Mr. Isbell. Do you mean that if you gave the constitutional test first you would not have to keep so many cards?

Mrs. Clement. That's right.

Mr. Isbell. Because a lot of people would flunk the constitutional test and, therefore, you wouldn't have to have them fill out cards?

Mrs. Clement. Yes.

Mr. Isbell. Did you use this same procedure on both Negroes and whites, or just on Negroes?

Mrs. Clement. Both.

Mr. Isbell. Did a lot of white persons also flunk the constitutional test?

Mrs. Clement. Well, some did.

Mr. Isbell. Would it be fair to assume, then, that if Mr. Clark and Mr. Amidon found the card of a rejected applicant dated in January or February of 1957—this is a card that he filled out, an application card, but the applicant's card is in the rejected file—would it be fair to assume that applicant flunked the constitutional test? He filled out the card, but he was rejected; so, probably, he flunked the constitutional test?

Mrs. CLEMENT. It must have been then.

Mr. ISBELL. Then is it also a proper assumption that any card that is in the rejected file after early 1957 is the card of somebody who passed the constitutional test, but who flunked or, that is, who did not fill out the application form properly?

Mrs. CLEMENT. I don't know. If we have a lot of them and they are lined up, we don't look the cards over as good as we should.

Mr. ISBELL. If you have a lot lined up, do you give the constitutional test to everybody?

Mrs. CLEMENT. No; not every time. I don't give the constitutional test to all the white people, nor all the Negroes.

Mr. ISBELL. You don't give it to everybody?

Mrs. CLEMENT. No.

[fol. 177] Mr. ISBELL. There are some white people you don't give it to?

Mrs. CLEMENT. And some of the colored I don't give it to.

Mr. ISBELL. How do you decide who you are going to give it to?

Mrs. CLEMENT. I don't know.

Mr. ISBELL. You have no basis for deciding that?

Mrs. CLEMENT. No. Well, sometimes if I know—so many coming there—and when I ask them to interpret the constitution, and I tell them that wasn't right, they said, well, they thought it was.

Mr. ISBELL. And if they would tell you they thought it was, did you—

Mrs. CLEMENT. I would just say, "Go and study the constitution and come back."

Mr. ISBELL. I am interested in finding out why you give the constitutional test to some people and not to other people.

Mrs. CLEMENT. Well, I just don't, because it just consumes so much time, and I was real strict in 1957, right after they did everything but shoot me, and after that I—they would come in the office, and if they had been registering for years—

Mr. ISBELL. In other words, if you know them—

Mrs. CLEMENT. Yes.

Mr. ISBELL. You are more likely to dispense with the constitutional test?

Mrs. CLEMENT. Yes.

Mr. ISBELL. You say you know a larger proportion of the white people than the colored people?

Mrs. CLEMENT. Yes.

Mr. ISBELL. Who come in to register?

Mrs. CLEMENT. That's right.

Mr. ISBELL. Now, you don't always look over their application form carefully, you said?

Mrs. CLEMENT. Well, not if they're lined up out there, I don't.

Mr. ISBELL. And you accept their applications in such circumstances, and you don't go back over them later on to see whether any errors were made?

Mrs. CLEMENT. No. Hardly ever. We file them.

Mr. ISBELL. Do you do this—that is, not look very carefully at the application cards—even if you don't know the people?

Mrs. CLEMENT. If I don't know them, I do.

Mr. ISBELL. In other words, if you know people, when there are a lot of people lined up, then you don't look very carefully at their application cards?

Mrs. CLEMENT. No; I don't.

Mr. ISBELL. When you do look at the application cards closely, Mrs. Clement, I would like to find out what sort of [fol. 178] mistake or omission on those cards is cause for rejecting an applicant. Suppose—well, let me use the recent one. Do you recognize this form, Mrs. Clement?

Mrs. CLEMENT. Yes.

Mr. ISBELL. This is the LR-1 that you are presently using; isn't that correct?

Mrs. CLEMENT. Yes.

Mr. ISBELL. Suppose an applicant doesn't indicate whether he or she is Mr., Mrs., or Miss; is that cause for rejecting an applicant?

Mrs. CLEMENT. No.

Mr. Isbell. Suppose that the applicant fails to put in the State and puts in the county or the parish instead of the State in here; would that be cause to reject an applicant?

Mrs. Clement. Well, no, because if they put the State, they put the county or parish down, the same over there, I let them go.

Mr. Isbell. In other words, if you can get the information from the card, that is sufficient?

Mrs. Clement. Yes.

Mr. Isbell. Now, suppose when they calculate their age in here—"I am now ——— years, ——— months, and ——— days of age"—suppose when the applicant calculates his or her age the number of days is wrong; would you reject an applicant for that?

Mrs. Clement. No, because I have too many women in Webster Parish that put 21 plus. As long as they're 21 years of age, I let them go. So, if they put the year, that's most of the time, I figure.

Mr. Isbell. Suppose the applicant answers this question, or on this question, "I have resided in this State since"—if the applicant just omits that, but then later on, "in this parish since"—and puts the information in there.

Mrs. Clement. Well, of course, if it is a requirement of the State, I usually ask them, and that's one thing I notice, or try to, is that they do put how long they have lived in the State.

Mr. Isbell. If somebody omitted that blank, would you tell them: "You have omitted this. Why don't you fill this in?"

Mrs. Clement. Yes, if it isn't properly filled in.

Mr. Isbell. Now, on the question, "My color is"—if it is a Negro applicant, is it acceptable for the Negro applicant to put "Negro" in there? How about "color"?

Vice Chairman Storey. You have to say "yes" or "no" for the record, please, ma'am.

Mrs. Clement. Yes.

Mr. Isbell. "Color" would be all right as well, ma'am?

Mrs. Clement. Yes.

Mr. Isbell. Suppose the applicant puts in the color of his or her skin, says "brown" or "black" or something like that; is that all right?

[fol. 179] Mrs. CLEMENT. Yes.

Mr. ISBELL. Suppose that the applicant leaves blank this question: "I am not now registered as a voter in any other ward or precinct of this State, except ...." Suppose the applicant did not put anything in here; is that cause for rejection of the applicant?

Mrs. CLEMENT. No; no. I usually ask them to put their own in there.

Mr. ISBELL. You ask the applicant to do that?

Mrs. CLEMENT. Yes.

Vice Chairman STOREY. Mr. Isbell, had you finished?

Mr. ISBELL. I was just checking my notes, sir. If you have questions, please—

Vice Chairman STOREY. Well, if you don't mind, we will go ahead and ask a few questions—

Mr. ISBELL. Please do.

Vice Chairman STOREY. Until you have something else.

Mr. ISBELL. Please do.

Vice Chairman STOREY. Mrs. Clement, let me ask you this: Do you have your office open every day for applicants, to register, or do you have certain days for applications?

Mrs. CLEMENT. It is open Monday, Tuesday, Wednesday, Thursday, and Friday.

Vice Chairman STOREY. Five days a week?

Mrs. CLEMENT. Yes.

Vice Chairman STOREY. And sometimes you have great, long lines?

Mrs. CLEMENT. Well, yes.

Vice Chairman STOREY. Now, after you give them the constitutional test and also they fill out the cards, do you pass on the card immediately while the applicant is there?

Mrs. CLEMENT. Yes.

Vice Chairman STOREY. In other words, you tell the applicant whether he is qualified—

Mrs. CLEMENT. Yes.

Vice Chairman STOREY. Or not, right there?

Mrs. CLEMENT. Yes, because we have periodic registration and it isn't—

Vice Chairman STOREY. You don't delay it to tell them that you will write them?

Mrs. CLEMENT. No.

Vice Chairman **Storey**. You make your decision right then?

Mrs. **Clement**. Yes, sir.

Vice Chairman **Storey**. As I understand, you give them the constitutional test first before you ask them to fill out the card?

Mrs. **Clement**. Yes.

[fol. 180] Vice Chairman **Storey**. Because if they fail in that there is no use to fill out the card; is that correct?

Mrs. **Clement**. Yes, sir.

Vice Chairman **Storey**. I observe from what you say with respect to the formalities of the card you are not as strict as some of them about they must dot every "i" and cross every "t"; is that right?

Mrs. **Clement**. Yes.

Vice Chairman **Storey**. In other words, you are rather liberal and tolerant about mistakes which are obvious?

Mrs. **Clement**. Yes.

Vice Chairman **Storey**. Now, then, tell me just how you administer the constitutional test. I understand it is oral, is it not?

Mrs. **Clement**. Well, I pass it to them; yes.

Vice Chairman **Storey**. I mean it is oral?

Mrs. **Clement**. Yes.

Vice Chairman **Storey**. You do not require them to write anything?

Mrs. **Clement**. No.

Vice Chairman **Storey**. Is that correct?

Mrs. **Clement**. No.

Vice Chairman **Storey**. Do you use the book, or do you copy or have some copies made to hand to them?

Mrs. **Clement**. No. I just use the book.

Vice Chairman **Storey**. You just use the book?

Mrs. **Clement**. Yes.

Vice Chairman **Storey**. You might give one voter in the line the test on revenue and taxation, and then the next voter you might turn over to another subject; is that correct?

Mrs. **Clement**. Yes.

Vice Chairman **Storey**. Now, just what do you say, in general, to the voter giving him the constitutional test? Just tell us exactly what you do.

Mrs. **Clement.** Well, two of my favorite ones that I give most of the time is about dispensing the general elections and the immunity of the legislature.

Vice Chairman **Storey.** Tell just how you do it. In other words, what do you say to the applicant and what does he say or do, or what do you ask him to say?

Mrs. **Clement.** I just pass it to him and tell him to explain what he read, like if he read something in the paper and was to tell it to someone else; just tell it in their own words.

Vice Chairman **Storey.** I see. You hand him the constitution on a particular subject—

Mrs. **Clement.** Yes.

[fol. 181] Vice Chairman **Storey.** You have mentioned two of them—and tell him to read it and then to explain to you what it means; is that correct?

Mrs. **Clement.** That's right.

Vice Chairman **Storey.** Do you just give him one test?

Mrs. **Clement.** I let them read it over and over—and not only white, but colored have been in that office 1 hour by the clock trying to interpret the constitution or fill out a form.

Vice Chairman **Storey.** Yes, ma'am. What I am trying to get at: For example, if you asked them about the election provision—

Mrs. **Clement.** All they would need to say to me—it concerned dispensing with general elections. Then I would know they understood it. I have explained to them: "Just make it one or two lines to explain."

Vice Chairman **Storey.** Then you say sometimes you have kept them an hour. Do you mean—

Mrs. **Clement.** I just—

Vice Chairman **Storey.** Did they read the same provision and you asked them again?

Mrs. **Clement.** That is right.

Vice Chairman **Storey.** And you have kept many of them an hour?

Mrs. **Clement.** I mean they have stayed in the office. I have no time limit. If they want to stay in there an hour—well, I won't let them stay much over an hour.

Vice Chairman STOREY. But it is all oral?

Mrs. CLEMENT. And I tell them to study and come back, and come back as many times as they want to.

Vice Chairman STOREY. Yes, ma'am. Now, then, with reference to your rejection, just percentagewise, or in general numbers, what percentage of the whites failed in the constitutional test and what percentage of the Negroes?

Mrs. CLEMENT. You mean by the cards that—

Vice Chairman STOREY. I mean the constitutional test.

Mrs. CLEMENT. Well, that's hard to tell. I just wouldn't know.

Vice Chairman STOREY. Do more whites pass it than Negroes?

Mrs. CLEMENT. Well, sir, since Webster was a Parish there's been more white registered than colored.

Vice Chairman STOREY. I understand that, but percentagewise—

Mrs. CLEMENT. Well, I just wouldn't know. I'm sure that, just off-hand, there's more whites that pass than colored.

Vice Chairman STOREY. Yes. They are better educated, as a rule.

Mrs. CLEMENT. Well, I—

Commissioner RANKIN. I have one question, Mrs. Clement. One of the witnesses testified last fall, in saying he was supposed to follow you, and said you said, "I mean quote word by word what I have read."

[fol. 182] Mrs. CLEMENT. No.

Commissioner RANKIN. Was that the definition of the interpreting of the constitution?

Mrs. CLEMENT. I have never told anyone that.

Commisioner RANKIN. So, that witness was wrong in error, when he said that?

Mrs. CLEMENT. I tell them—I explain to them—the very blackest one that comes into that office—to explain to me just exactly like they read an incident in the paper and try to tell it to me, and that's all I require, but when they come in there and I give them one about dispensing the general election and they start telling me about John Foster Dulles I do not accept it.

Commissioner RANKIN. Another one said this: You asked him about: "How many illegitimate children do you have?"

And he replied: "None." And the answer to that was: "That's a damn lie."

Mrs. CLEMENT. I don't remember that.

Commissioner RANKIN. That is the testimony.

Mrs. CLEMENT. But I could have said it. I could have said it to someone.

Commissioner RANKIN. Can I ask you one more question?

Mrs. CLEMENT. Yes, sir.

Commissioner RANKIN. On this question to Mr. Morgan about the finance and taxation—what would have been a good interpretation of that?

Mrs. CLEMENT. I don't remember even asking anyone that, but, of course, I remember only one of those four that testified.

Commissioner RANKIN. And—

Mrs. CLEMENT. I don't remember any more. As I say, I know so few Negroes in Webster Parish, and I do not remember.

Commissioner RANKIN. Of course, I meant if you would have answered that question what the answer would have been on that finance and taxation that he read here, that article.

Mrs. CLEMENT. I don't know. I have to do like them. I have to read it over.

Chairman HANNAH. Mrs. Clement, Dean Storey asked the question about percentages, and you said you couldn't guess on the percentages. If there are 10 Negro applicants, do half of them pass? Do a quarter of them pass?

Mrs. CLEMENT. Well—

Chairman HANNAH. Is it a very small part of all the Negroes that apply that pass?

Mrs. CLEMENT. Yes; a small part.

Chairman HANNAH. When I look at the chart over there and it says there are 7,300 nonwhites over 21 and there are only 125 of them that are registered—that's less than 2 percent, but then it indicates that there are 80 percent of the [fol. 183] white people, and what I am trying to get at: Is it because there aren't many Negroes that apply or is it because most of them fail?

Mrs. CLEMENT. Well, they don't apply.

Chairman Hannah. But those that do apply—do as many of them pass as white people?

Mrs. Clement: No.

Vice Chairman Storey. You have mentioned a time or two, Mrs. Clement, about the four witnesses you understood testified here last fall. You knew just one of them.

Mrs. Clement. I knew—

Vice Chairman Storey. Did one of them come back to see you after he had been down here?

Mrs. Clement. The only one I remember is Willie Mae Allums. Yes, sir; she came down.

Vice Chairman Storey. And applied for registration?

Mrs. Clement. Yes, sir.

Vice Chairman Storey. What happened then?

Mrs. Clement. I passed her the constitution to interpret a section, and she told me she wouldn't even try; says, "I cannot do this now, and I never can," and I told her if she expected to get a card to fill out and a certificate she would have to.

Vice Chairman Storey. Now, you mentioned you don't remember most of them. What caused you to remember this particular one?

Mrs. Clement. I don't know.

Vice Chairman Storey. All right. Thank you.

Mrs. Clement. I just did.

Vice Chairman Storey. Mr. Isbell, do you have any more questions?

Mr. Isbell. Yes, sir. Mrs. Clement, I would like to ask you to look at a rejected application form. This is identified as Exhibit U-106. The testimony indicates that this card was found in the file of rejected application forms. I would like to ask you, if you can, to indicate to me what error is made on that card.

Mrs. Clement. Well, of course, the person is only 21 years old and, of course, she had no former registration and, of course, she had no party affiliation, but unless she just did not interpret the constitution—I don't remember the person.

Mr. Isbell. You don't find anything on the card, itself, that would warrant your rejecting this application?

Mrs. Clement. Well, I would ask them to state their party, if they had passed every other test—I mean the constitutional test—and stating "Democrat," "Republican," or "No Party."

Mr. Isbell. This is the old form, isn't it? It is like this one?

[fol. 184] **Mrs. Clement.** Yes.

Mr. Isbell. And the only omission you find is, "I am now affiliated with the ——— Party," and you don't find that item filled in; is that correct?

Mrs. Clement. No; it isn't filled in, but I would call that to their attention.

Mr. Isbell. Yes. Well, you would not say you would have rejected this application because of that?

Mrs. Clement. No. It would have to be something else. I mean she didn't interpret the constitution.

Mr. Isbell. Now, notice the date on that form, Mrs. Clement.

Mrs. Clement. It's—

Mr. Isbell. What is the date on it?

Mrs. Clement. July 16, 1957.

Mr. Isbell. Now, that was after you had changed your policy as to the order in which you administered the constitutional test; isn't that correct?

Mrs. Clement. Yes.

Mr. Isbell. Now, you had given this person an application form, which would indicate that she had already passed the constitutional test; isn't that correct?

Mrs. Clement. Well, I don't know. A lot of times I have kept the cards and told them that when they returned they would not have to fill out another card—sometimes—but sometimes they would fill them out.

Mr. Isbell. That is, you keep the card if they have been rejected—

Mrs. Clement. That's right.

Mr. Isbell. If they failed to register?

Mrs. Clement. Yes.

Mr. Isbell. The question is: Why would this person have been rejected?

Mrs. Clement. I do not remember, unless she didn't interpret the constitution.

Mr. Isbell. Would you tell me the same thing about these two exhibits, please, Mrs. Clement? One is marked U-107. One is marked U-108. Both of these have been identified as being in the file of rejected applications.

Mrs. Clement. I do not—I cannot remember. Of course, this is wrong, right here, "The name of the householder at my present address."

Vice Chairman Storey. Will you talk just a little louder, please, ma'am? We can hardly hear.

Mrs. Clement. Where it says: "The name of the householder at my present address."

[fol. 185] Mr. Isbell. In other words, this question here: "The name of the householder at my present address is"—that blank is not filled in?

Mrs. Clement. Well, not properly.

Mr. Isbell. What does it say on that?

Mrs. Clement. It says: "Route 1, Box 111, Sibley, La."

Mr. Isbell. In other words, it gives the address and not the name?

Mrs. Clement. Householder. The householder. Children that aren't married put their father. Wives put their husband's name, and the husbands put their own.

Mr. Isbell. And that is on Exhibit U-108. In other words, that might be the reason why this person—

Mrs. Clement. That's right.

Mr. Isbell. Was rejected?

Mrs. Clement. It might be. I don't remember.

Mr. Isbell. Can you give us any idea why that other application would have been rejected, U-107?

Mrs. Clement. No. I do not remember this one. She put "Owner" there.

Mr. Isbell. I would like the record to show all of these are rejected applications of Negro applicants.

Vice Chairman Storey. They will be so received and filed. Anything else, Mr. Isbell?

Mr. Isbell. No.

Vice Chairman Storey. Mrs. Clement—do you have something, Mr. Bernhard?

Mr. Bernhard. I just have one. You may recall, Mrs. Clement, Mr. Amidon testified about some rejected Negro applications back in January-February of 1957, and I have just looked at one which he identified as U-105(b), and I don't see any errors on it, and I would just like to ask you if I am in error in my analysis of it.

Mrs. **Clement.** This was in January of 1957, right when I had had orders to comply with the law.

Mr. **Bernhard.** What did that mean—"to comply with the law"?

Mrs. **Clement.** Well, the registration law, which is to ask them to interpret the constitution. Unless he failed that, I do not know.

Mr. **Bernhard.** And, as I understand it, since this time you sometimes ask the constitutional test and sometimes don't?

Mrs. **Clement.** Well, I did white and colored in 1957, and the first 2 years, 1957 and 1958, most of them. There was a few of both white and colored I didn't ask; the lawyers and doctors and different ones I did not ask, but most of them I did.

Mr. **Bernhard.** So that if, in fact, this has been, as it is, correctly filled out, the reason the person is not registered is that he did not pass the constitutional interpretation?

[fol. 186] Mrs. **Clement.** I don't remember, but it must have been.

Mr. **Bernhard.** And, in fact, if that had not been asked of this applicant he might have been registered; is that correct, also?

Mrs. **Clement.** If that had been 1954, 1955, or 1956, he would have been a registered voter.

Mr. **Bernhard.** Thank you very much.

Vice Chairman **Storey.** Mrs. Clement, didn't I understand you to say after the new law became effective that the first thing you did was give the constitutional test, so that if the person failed, then you did not fill out a card; is that correct?

Mrs. **Clement.** Yes. I let them fill the card first—

Vice Chairman **Storey.** Oh. I see.

Mrs. **Clement.** And then I quit that and gave them the constitution first.

Vice Chairman **Storey.** So, you wouldn't have to fill out the card?

Mrs. **Clement.** Yes.

Vice Chairman **Storey.** You don't know which category these are in?

Mrs. **Clement.** No, sir; I do not.

Vice Chairman **Storey.** Any other questions?

Chairman **Hannah.** Yes. I would like to ask again this question: If, on this form I have, the only error is an omission in not indicating the political party with which the applicant is affiliated, is that sufficient reason alone for you to refuse the certificate, in your view?

Mrs. **Clement.** Well, no, but I don't remember that, whether they failed the constitution or what. I do not remember.

Chairman **Hannah.** I see.

Mr. **Padgett.** May I—

Vice Chairman **Storey.** All right, Mr. Padgett.

Mr. **Padgett.** Because the investigators were confused by that same thing, may I explain it would make no difference at all as to the qualifications of the applicant, other than he would not be qualified to vote in any primary election if he did not fill that in?

Mrs. **Clement.** No.

Chairman **Hannah.** What I am trying to get is not the specific question, but the single omission, which to me seems to be of no particular importance, if that is the only omission, whether that is, in itself, enough to refuse to proceed with the registration, and Mrs. Clement isn't just sure because she isn't sure whether it was on this card or something else as the reason she rejected it.

Vice Chairman **Storey.** All right. Anything else? You are excused, then, Mrs. Clement. Do you have anything else on this parish, Mr. Bernhard?

[fol. 187] Mr. **Bernhard.** No. I have nothing further of Mrs. Clement. I wonder whether or not Mr. Padgett, who had told us—we invited him to submit a statement. He has not done so, and I do not know whether or not he had any statement that he wanted to make or whether the Commission would care to hear it.

Vice Chairman **Storey.** Mr. Padgett.

Mr. **Padgett.** I appreciate your courtesy, Mr. Bernhard. I don't believe that any statement is necessary, other than the fact that we have come a considerable distance, and I wonder whether it would be in order to ask the Commission if we may now be excused.

Vice Chairman STOREY. Do you have anything else? Any objection?

Mr. BERNHARD. None whatsoever.

Vice Chairman STOREY. You and your witness may be excused, Mr. Padgett. Thank you. Now we will take a recess for 10 minutes.

(Thereupon, at 3:18 p.m., a 12-minute recess was taken.)

Vice Chairman STOREY. May we be in order? Mr. Bernhard, would you present the next witness or evidence?

Mr. BERNHARD. At this time, Mr. Chairman, I would like to recall Mrs. Elizabeth Taylor, from Plaquemines Parish, for just a few questions. This will be very brief.

Vice Chairman STOREY. Will you come around, please?

Will you hold up your right hand and be sworn? Do you solemnly swear the testimony you are about to give will be the truth, the whole truth, and nothing but the truth, so help you God?

Mrs. TAYLOR. I do.

* * * * * * *

Plaintiff's Exhibit No. 8A

(See Opposite) ☞

PLAINTIFF'S EXHIBIT NO. 8A

STATE OF LOUISIANA

INFORMATION

RELATIVE TO

DEMOCRATIC PRIMARY ELECTION

To be held January 18, 1944
Under the provisions of Act 46 of 1940

ISSUED BY

Jas. A. Gremillion
Secretary of State

Approved:

Eugene Stanley
Attorney General

[fol. 188]

FORM FOR CALLING PRIMARY ELECTION

................................, La.,....................................., 1943.

MINUTES of a meeting of the Democratic Executive Committee of the..

The Democratic Executive Committee of the..............,

....,

State of Louisiana, met in accordance with law on this date at the above place. There were present in person the following members:

....

....

....

....

The following members were represented by proxies in due form, which have been filed with the records of this committee:

....

....

....

....

RESOLUTION By Mr...

WHEREAS, Act No. 46 of 1940, requires that the Democratic Executive Committee of the.................................

....

....

State of Louisiana, shall meet and issue a call for a primary election for the purpose of selecting a Democratic candidate for the office of..

....

for the ensuing term.

THEREFORE, BE IT RESOLVED by the Democratic Executive Committee of the..

....

[fol. 189]

that Tuesday, January 18, 1944, be fixed as the date for the holding of said primary election of the Democratic party for said nomination; that any one desiring to become a candidate for the Democratic nomination for

....

for the ensuing term, shall on or before midnight of

....,

1943, file with..,

Chairman of this Committee, in the form prescribed by law, his notification of candidacy, setting forth that he is a duly qualified elector under the Constitution and laws of Louisiana, and that he is a member of the Democratic Party and shall accompany his said written notification of candidacy with his affidavit setting forth that he possesses all of the qualifications prescribed by the resolutions of the State Central Committee of the Democratic Party.

BE IT FURTHER RESOLVED, That no one shall be permitted to vote at the said Democratic Primary Election except electors of the White Race.

BE IT FURTHER RESOLVED, That all candidates for said nomination shall deposit with the Chairman of this Committee, to be remitted to the Secretary of State, the sum of $..................required by Section 32 of Act 46 of 1940, and shall in addition at the same time deposit for incidentals and other expenses of this Committee the sum of $..................and also the sum of $..................., to be remitted to the Secretary of the Democratic State Central Committee in accordance with its resolutions.

There being no further business, the meeting duly adjourned.

....

Chairman.

....

Secretary.

[fol. 189a]

PLAINTIFF'S EXHIBIT NO. 8B

STATE OF LOUISIANA

INFORMATION

RELATIVE TO

DEMOCRATIC PRIMARY ELECTION

To be held January 20, 1948
Under the provisions of Act 46 of 1940,
as amended

ISSUED BY

WADE O. MARTIN, JR.,
Secretary of State.

Approved:

FRED S. LEBLANC,
Attorney General.

[fol. 190]

FORM FOR CALLING PRIMARY ELECTION

.............................., La.,......................................, 1947.

MINUTES of a meeting of the Democratic Executive Committee of the..

The Democratic Executive Committee of the.............

....,

State of Louisiana, met in accordance with law on this date at the above place. There were present in person the following members:

....

....

....

....

The following members were represented by proxies in due form, which have been filed with the records of this committee:

....

....

....

....

RESOLUTION By Mr...

WHEREAS, Act No. 46 of 1940, requires that the Democratic Executive Committee of the.........................

....

....

State of Louisiana, shall meet and issue a call for a primary election for the purpose of selecting a Democratic candidate for the office of..

....

for the ensuing term.

THEREFORE, BE IT RESOLVED by the Democratic Executive Committee of the.....................................

....

that Tuesday, January 20, 1948, be fixed as the date for the holding of said primary election of the Democratic party for said nomination; that any one desiring to become a candidate for the Democratic nomination for

8

....

for the ensuing term, shall on or before 5 o'clock P. M.

(Central Standard Time) of..

1947, file with...,

Chairman of this Committee, in the form prescribed by law, his notification of candidacy, setting forth that he is a duly qualified elector under the Constitution and laws of Louisiana, and that he is a member of the Democratic Party and shall accompany his said written notification of candidacy with his affidavit setting forth that he possesses all of the qualifications prescribed by the resolutions of the State Central Committee of the Democratic Party.

BE IT FURTHER RESOLVED, That no one shall be permitted to vote at the said Democratic Primary election except electors of the White Race.

BE IT FURTHER RESOLVED, That all candidates for said nomination shall deposit with the Chairman of this Committee, to be remitted to the Secretary of State,

the sum of $................required by Section 32 of Act 46 of 1940, as amended and shall in addition at the same time deposit for incidentals and other expenses of this Committee the sum of $..................and also the sum of $..................., to be remitted to the Secretary of the Democratic State Central Committee in accordance with its resolutions.

There being no further business, the meeting duly adjourned.

....

Chairman.

....

Secretary.

1

PLAINTIFF'S EXHIBIT No. 10.

PLAINTIFF'S EXHIBIT NO. 10

Voter Qualification Laws In Louisiana

The Key To Victory In The Segregation Struggle

A Manual of Procedure For Registrars
of Voters, Police Jurors and
Citizens Councils

- Foreword -

Bloc Control — The Goal of the NAACP and the Communists

The Communists and the NAACP plan to register and vote every colored person of age in the South. While the South has slept, they have made serious progress toward their goal in all the Southern states, including Louisiana.

They are not concerned with whether or not the colored bloc is registered in accordance with law. They are interested only in seeing that all persons in this bloc are registered and in using their votes to set up a federal dictatorship in the United States.

They plan to divide the people of the South, and to take us over, state by state, and parish by parish. They would do this by trading the minority block back and forth between our split-up factions until we have sold our heritage of freedom and self-government for a shifting parcel of NAACP and Communist controlled votes.

The Enforcement of Voter Qualifications Laws in Louisiana

At least ninety percent of the bloc that they plan to misuse would have to be registered illegally in Louisiana because ninety percent of them cannot meet the voter qualifications prescribed by law. In fact, ninety percent of this bloc now registered and being used by the NAACP to control some of our elections, are registered in violation of our laws and illegally influencing the election of our officials.

The People, the Officials and the Citizens' Councils in Law Enforcement

It has become vitally important that the people see to it themselves that the Registrars of Voters throughout the state comply fully with the provisions for qualifications of voters set forth in our Constitution and our Statutes.

The ACCL has prepared this manual of legal procedure which Registrars in Louisiana may follow in preventing illegal registration. The manual outlines the methods by which parties who have been registered illegally may be removed by law from the registration rolls.

The consistent use of this manual will be especially helpful to our state and local officials, and local Citizens' Councils in lending the Registrars of Voters the support and guidance that they must have in carrying out the all-important job of enforcing our voter qualification laws.

The Key to Victory

We are in a life and death struggle with the Communists and the NAACP to maintain segregation and to preserve the liberties of our people.

The impartial enforcement of our laws is the KEY TO VICTORY in this struggle.

- Contents -

I. Introduction Page 3

The legal background for voter qualifications and the practical reasons for enforcement

II. Registration Qualifications Page 4

A step by step outline of the qualifications for voter registration provided by law, with explanations of each qualification and the penalties for violating same.

III. The Removal of Illegally Registered Voters Page 6

A review of the processes by which

1. A registrar is required by law to remove illegally registered voters.
2. Any two qualified voters in a parish may institute automatic legal proceedings through the registrar for the removal of unlawfully registered voters in the parish.
3. Any one qualified voter in the state may institute legal proceedings through a District Court for the removal of any unqualified voters in any parish of the state.

IV. Conclusion Page 7

A summation of the reasons that make voter qualification laws so necessary and their enforcement so vital to our way of life.

V. Appendix Pages 9-10

Legal forms to use in removing unlawfully registered voters from the registration rolls.

Voter Qualification Laws In Louisiana

INTRODUCTION

"After January 1, 1922, the right to vote in Louisiana shall not exist except under the provisions of this Constitution." This solemn declaration in Article VIII, Section 1 of our Constitution is just another way of saying that the "right to vote" is not a "right" at all. It is a privilege which the State extends only to certain of its citizens having such qualifications as are prescribed in our Constitution and Statutes.

This principle was pointed out with great clarity by the Supreme Court of the United States in the case of Pope v. Williams 193 U. S. 621, 24 S. Ct. 573 (1904). The court in that case said:

> "The privilege to vote in any State is not given by the federal Constitution, or by any of its amendments. It is not a privilege springing from citizenship of the United States. . . . It may not be refused on account of race, color, or previous condition of servitude, but it does not follow from mere citizenship of the United States. In other words, the privilege to vote in a State is within the jurisdiction of the State itself, to be exercised as the State may direct, and upon such terms as it may seem proper, provided, of course, no discrimination is made between individuals, in violation of the Federal constitution.

We are all familiar with such requirements as those of age, residence and citizenship. Some remember that not many years ago women were not permitted to vote in forty-seven of the forty-eight states. The nineteenth amendment to the Constitution of the United States was passed to change this. Indeed, every civilized country restricts its electorate by some form of registration qualifications.

The purpose of this pamphlet is to review the qualifications prescribed by Louisiana law and the remedies provided in the event of violation of these laws.

The need for some compilation of our registration laws was suggested by numerous reports of widespread ignorance of, and, in many cases, deliberate and wilful violation of these safeguards to honest and intelligent elections.

No one would think of encouraging a child of tender years to play with a loaded gun; yet many of our officials and responsible citizens condone and even approve the registration of unqualified and ignorant blocs of voters. The destruction that might be wrought by a child with a gun is, you can be sure, nothing compared to that which can be wrought by bloc voting of an ignorant electorate. Whoever encourages such a practice is not only a poor citizen, he is dangerous and an enemy to you and your family! You as a citizen must be vigilant against this danger which threatens every community in our beloved State.

Registration Qualifications

The qualifications for registration are contained in Article VIII of the Louisiana Constitution and Title 18 of the Revised Statutes of our State. In order to legally register to vote, an applicant must fulfill each of these qualifications. Hence, a registrar before enrolling ANY person as a voter must proceed as follows:

1. Personal Appearance. Every applicant shall appear personally before the registrar at a designated place of registration provided by law. No registration made by proxy or at any other place is valid. (Const. Art. VIII, Sec 1, par. (b); L. R. S. 18:33)
2. Identification. Unless the applicant is personally known to the registrar, he must establish his identity (Const. Art. VIII, Sec. 1, Par. (e).). The registrar may require that the applicant produce two registered voters from his precinct to identify him. (L. R. S. 18:37).
3. Residence. The applicant shall establish that he has been an actual resident of the State for two years, of the parish for one year and of the precinct for three months. (Const. Art. VIII, Sec. 1, Par. (a)).
4. Citizenship and Age. The applicant is, also, required to prove that he is a citizen of the State and the United States and that he is not less than twenty-one years of age. (Const. Art. VIII, Sec. 1 and L.R.S. 18:31). Special methods of proof are provided for foreign born applicants. (L.R.S. 18:38).
5. Ability to Read and Write. The applicant shall be able to read and write and shall demonstrate this ability by completing the registration form in his own handwriting, WITHOUT assistance or suggestion from any person OR any memorandum or form. (Const. Art. VIII, Sec. 1, Par. (c); L.R.S. 18:31). Where the applicant does not comply

strictly with this requirement his registration is illegal and cannot be cured by filing a new application properly filled out. He must register completely. (Op. Atty. Gen. 1942-1944, p. 457.)

6. **Persons Unable To Complete Registration Form in Own Handwriting.** Exceptions to the requirements of paragraph 5 above are made in the following cases:

   A. If the applicant is literate in a language other than English, he may fill out the registration blank in his native language with the card being translated to him by an interpreter. (Const. Art. VIII. Sec. 1. Par. (c); L.R.S. 18:31).

   B. If the applicant is prevented from reading or writing by physical disability, the card shall be written at his dictation by the registrar. (Const. Art. VIII. Sec. 1. Par. (c); L.R.S. 18:31).

   C. If the applicant is an illiterate, he may be permitted to register on demonstrating the following: (Does not need two witnesses)

      1. That he is of good character and reputation.
      2. That he is attached to the principles of the Constitution of the United States and of Louisiana.
      3. That he understands the duties and obligations of citizenship under a republican form of government.
      4. That he is well disposed to the good order and happiness of the State of Louisiana and the United States.
      5. That he understands and can give a reasonable interpretation of any section of either the Constitution of Louisiana or the United States when read to him by the registrar.

(It should be noted that these three restrictions are aimed at eliminating all except the physically handicapped and foreign language speaking citizens who are literate, and the very intelligent illiterates. Since this is in the nature of an exception to the usual rule, each of the specific qualifications above set forth must be strictly fulfilled. (Const. Art. VIII. Sec. 1. Par. c and d; L.R.S. 18:31 and 36.) In each of the above cases, the applicant shall **NOT** be registered unless he brings with him two qualified electors of the precinct in which he resides to sign written affidavits attesting the truth of the facts set forth in the application form and the accompanying affidavit. (L.R.S. 18:31 (5).)

7. **Character and Understanding.** Every applicant must establish that he is of good character and understands the duties and obligations of citizenship under a republican form of government. (Const. Art. VIII, Sec. 1, par. c. L.R.S. 18:31 (2).)

8. **Ability To Read and Interpret Constitution.** Every applicant, other than those described in paragraph 6 above, shall demonstrate his intelligence by reading and giving a reasonable interpretation of any portion of the Constitution of Louisiana or the United States selected by the registrar. (Const. Art. VIII. Sec. 1. par. c: L.R.S. 18:35: Trudeau v. Barnes, 65 F (2) 563 (1933), certiorari denied 54 S. Ct. 74. 290 U. S. 659, 78 L. Ed. 571.)

9. **Persons Ineligible To Register.** The following persons shall not be permitted to register:

   A. Those convicted of any felony X who have not been pardoned with express restoration of franchise.

   B. Inmates of any charitable institution except the Soldiers' Home, and the U. S. Marine Hospital at Carville.

   C. Those actually confined in any public prison.

   D. Those who have been interdicted.

   E. Those who are notoriously insane or idiotic, whether interdicted or not.

   F. Deserters from military service, until they have returned to their command and served out their original enlistment.

   G. Persons dishonorably discharged from the military. (Const. Art. VIII, Sec. 6 and L. R. S. 18:42). until served)

It should be clearly understood that these qualifications are mandatory. No registrar can lawfully waive any of them. (L.R.S. 18:196). Failure to fully qualify makes the registration illegal and subjects anyone violating these requirements, including the registrar, to fine and imprisonment. (L.R.S. 18:221 and 222).

The Removal of Illegally Registered Voters

In a large majority of the parishes in the State, there are at this time, great numbers of unqualified voters who have been illegally registered. They invariably vote in blocs and constitute a serious menace to the community. As a patriotic and loyal citizen, it is your duty to see that the registration rolls in your parish are purged of illegal voters and kept clean in the future. Our laws already provide easy and rapid means for cleaning up a situation such as that now facing the citizens of this State. All that is needed is a little information (which we earnestly hope this pamphlet will provide), courage, intelligence and determination on your part. All civic clubs and patriotic organizations should undertake a campaign to purify the registration rolls in their respective parishes.

The status of the rolls in your parish can be easily determined because they are public records and must be open to inspection by any qualified voter at all times during office hours. Upon written application of twenty-five or more qualified voters of the parish, these records shall be opened for copying, photographing, or photostating. (L.R.S. 18-92).

Once the rolls have been inspected and the illegally registered voters ascertained, their removal can be accomplished by any of three methods.

First: The registrar having reason to believe that any person is illegally registered, shall immediately notify the person by mail of the alleged irregularity, sending with the notification a printed citation requiring the registrant to show cause within ten days why his registration should not be cancelled. Publication of this notice shall be made in the official journal. Unless the registrant appears within the time allotted with three registered voters of the parish to make affidavit that he is legally entitled to remain registered, his registration is cancelled. (L.R.S. 18:132 and 244).

Second: Any two registered voters of the parish may make an affidavit before the registrar charging illegal registration. The registrar shall immediately (within forty-eight hours) mail a duplicate of the affidavit together with a citation requiring the one charged to appear within ten days and prove by three registered voters, in the manner described in the preceding paragraph, that he is qualified. Similar publication must be given. If the challenged registrant fails to make the required proof within the prescribed time his registration shall be cancelled forthwith. (L.R.S. 18:133 and 245).

Third: Any qualified voter of the State may proceed against any registrant or registrants illegally registered in the district court of the parish of said registrants to have their names stricken from the rolls. Such proceeding shall be tried by preference before a jury of twelve, nine of whom must concur to find a verdict. No appeal shall lie, except by a person whose name has been stricken. Such an appeal shall be tried in the Court of Appeals, whose judgment is final. All of the proceedings described in this paragraph shall be without court costs. (Const. Art. VIII, Sec. 5)

In an appendix to this pamphlet will be found two suggested forms for use in connection with purging the rolls of unqualified voters. Form "A" is an affidavit to be used by two qualified voters of the parish in challenging illegal registration, when the second method above listed is used. Form "B" is a printed citation to be used by the registrar in connection with either the first or second method.

Conclusion

The time has come when we in Louisiana must purge and purify the registration rolls in our state, or abandon the conduct of our

public affairs to a small clique of corrupt and disloyal political opportunists. In proceeding to clear the rolls of illegally registered voters and in establishing a systematic procedure for registration in your parish, you must be exceedingly careful to observe the legal rights of ALL of the citizens of the parish. The whole purpose of our registration laws is to prevent the registration of ignorant, "bloc" voters who would become the tools and pawns of scheming adventurers. If our laws are intelligently and fairly administered, they will accomplish our purpose automatically. If they are not carefully observed as to ALL registrants, we will soon find ourselves right back in the situation which we are now combatting. We must each realize that our friend or our relative who is unable to legally qualify would be just as great a menace to our State as any other illegally registered person. Discrimination between applicants or registrants cannot be tolerated! The future of our state, our family and future generations will depend to a great extent on how these registration laws are enforced.

APPENDIX "A"

Form LR--17

AFFIDAVIT IN CASE REGISTRATION OF VOTER IS CHALLENGED

State of Louisiana—
Parish of ______

Personally came and appeared before me

______

(Deputy) Registrar of Voters in and for the
Parish of ______
State of Louisiana.

______ and

______

who being duly sworn, do depose and say: That they are bona fide registered voters of this parish: That after reasonable investigation by them, and each of them, and on information and belief, that ______

______

Registered from ______

______

(Municipal number and street, if any)

To whom was issued registration certificate No. ______ Ward ______

Precinct ______, of this Parish, is illegally registered or has lost his or her right to vote in the precinct, ward or parish in which they are registered, for the following reasons:

______

______

______

And should be erased from the Official Precinct Register of Ward ______

Precinct ______, that this affidavit is made for the purpose of causing said name to be erased.

Sworn to and subscribed ______

______

before me, on this
day of ______, 19______

______

______

(Deputy) Registrar of Voters

(9)

APPENDIX "B"

Form LR--16B

PRINTED CITATION OF NOTICE TO ERASE

State of Louisiana.
Parish of ______

Registration Office

CITATION TO APPEAR

FROM:

______
Registrar of Voters

Parish of ______
State of Louisiana:

TO: ______

______

______

You are hereby notified, that on or before

the ______ day of ______

1956, a period of ten days from the mailing date of this citation, during office hours, you are to show cause in person, if any you have, before the undersigned registrar of voters for

the Parish of ______
State of Louisiana; why your name should not be erased from the Official Precinct Register of Ward No. ______

Precinct No. ______

Certificate No. ______

In order to retain your registration you are required to produce proof that you are legally registered in the manner provided by the law.

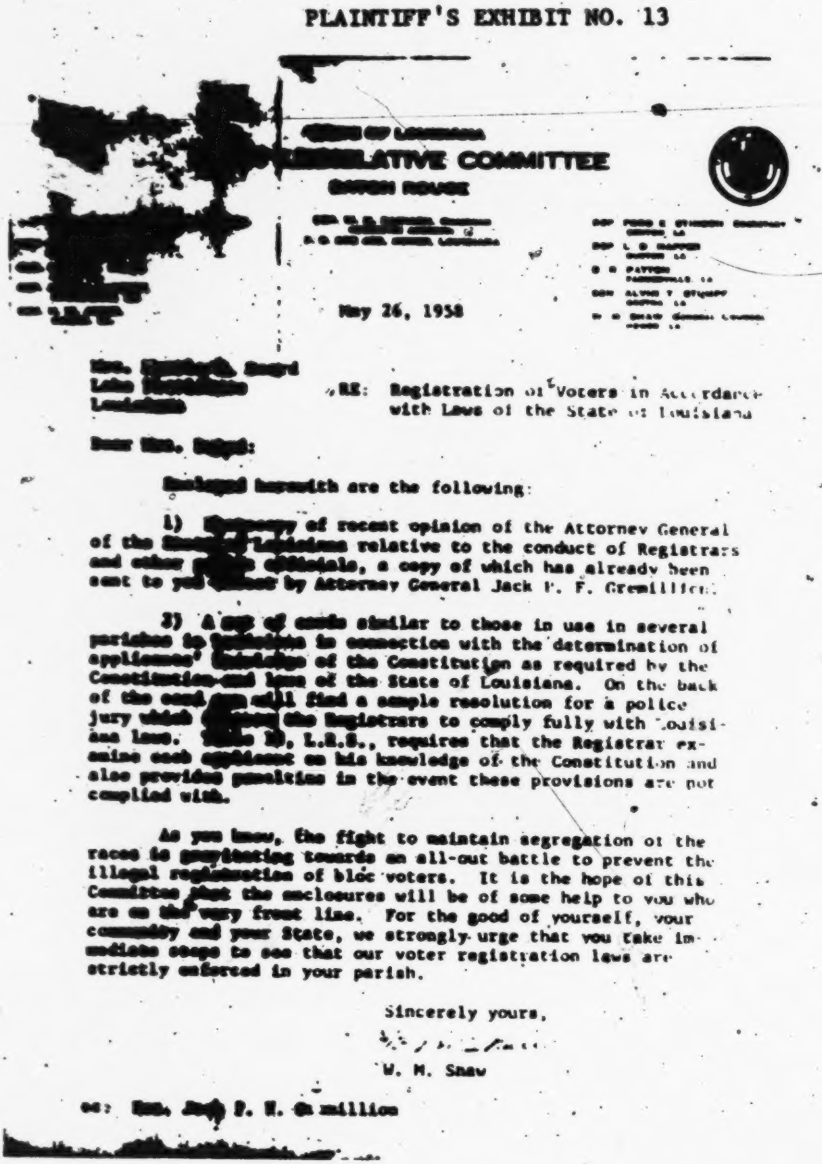
______
Registrar of Voters.

LOUISIANA:

______ day of ______ 19______

(10)

PLAINTIFF'S EXHIBIT No. 13



PLAINTIFF'S EXHIBIT NO. 13

STATE OF LOUISIANA
LEGISLATIVE COMMITTEE
BATON ROUGE

May 26, 1958

Mrs. [illegible]
Lake Providence
Louisiana

RE: Registration of Voters in Accordance with Laws of the State of Louisiana

Dear Mrs. [illegible]:

Enclosed herewith are the following:

1) A copy of recent opinion of the Attorney General of the State of Louisiana relative to the conduct of Registrars and other public officials, a copy of which has already been sent to you direct by Attorney General Jack P. F. Gremillion.

2) A set of cards similar to those in use in several parishes in Louisiana in connection with the determination of applicants' knowledge of the Constitution as required by the Constitution and laws of the State of Louisiana. On the back of the card you will find a sample resolution for a police jury which [illegible] the Registrars to comply fully with Louisiana laws. Title 18, L.R.S., requires that the Registrar examine each applicant on his knowledge of the Constitution and also provides penalties in the event these provisions are not complied with.

As you know, the fight to maintain segregation of the races is gravitating towards an all-out battle to prevent the illegal registration of bloc voters. It is the hope of this Committee that the enclosures will be of some help to you who are on the very front line. For the good of yourself, your community and your State, we strongly urge that you take immediate steps to see that our voter registration laws are strictly enforced in your parish.

Sincerely yours,

W. M. Shaw

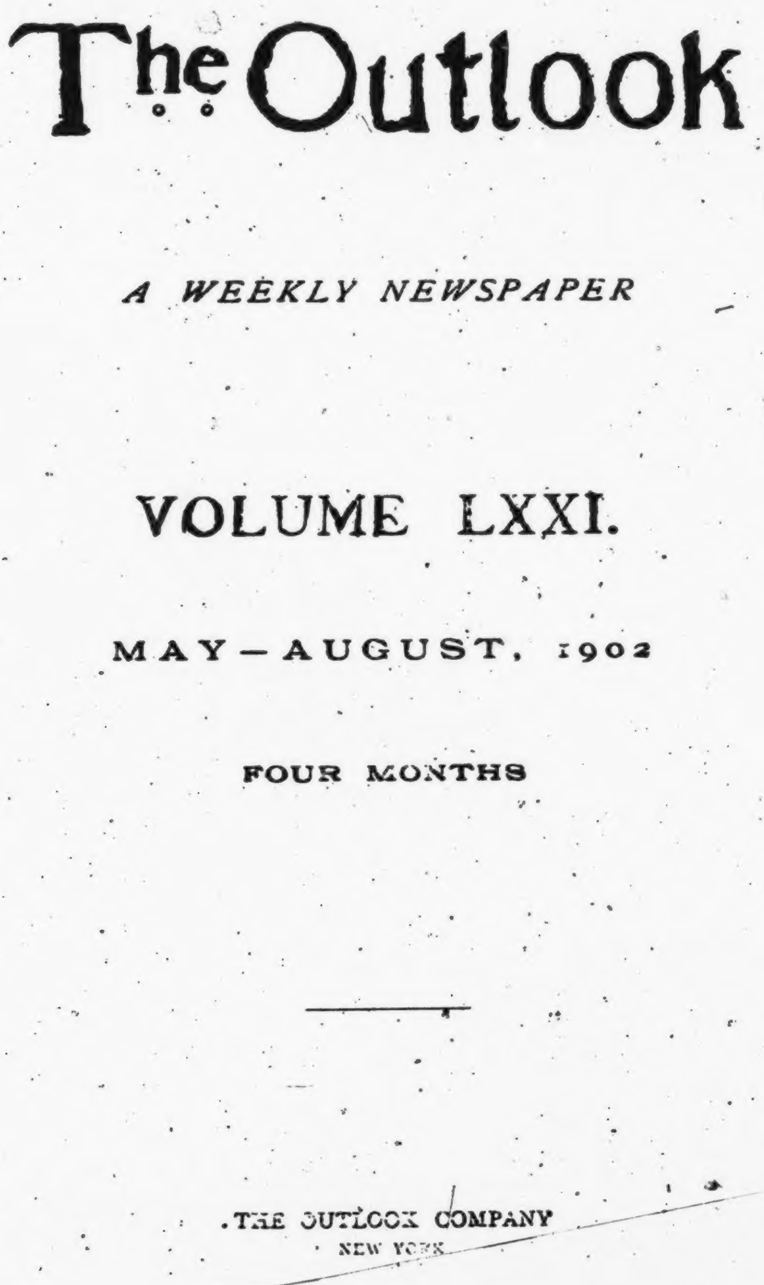
cc: Hon. Jack P. F. Gremillion

PLAINTIFF'S EXHIBIT No. 15

(Exhibits 15A-15 I are news articles on background of adoption of Interpretation Test in 1921.)

PLAINTIFF'S EXHIBIT No. 15A

[fol. 199a]



The Outlook

A WEEKLY NEWSPAPER

VOLUME LXXI.

MAY—AUGUST, 1902

FOUR MONTHS

THE OUTLOOK COMPANY
NEW YORK

Negro Disfranchisement in Louisiana

By Paul L. Haworth

IN February, 1898, there assembled in Tulane Hall, New Orleans, a Constitutional Convention whose main object s to frame new suffrage requirements t would legally or quasi-legally elimiate the negro from politics, and thus obviate the necessity of a continued use of hot-gun tactics" to accomplish that end. wing to the fact that the Convention ished to disfranchise the blacks alone, it was prevented by the Fifteenth Amendent from doing this by discriminations ased directly on color, the system finally pted is a complicated one. Under its ovisions an applicant for registration st show that he can read and write, or t he is the bona-fide owner of $300 orth of taxable property within the State: ovided, however (and these are the faous "naturalization" and "grandfather" lauses), that "no male person who was n January 1, 1867, or at any date prior hereto, entitled to vote under the Constitution or statutes of any State of the United States wherein he then resided, and no son or grandson of any such pern not less than twenty-one years of age the adoption of this Constitution, and person of foreign birth who was natulized prior to the first day of January, 1898, shall be denied the right to register nd vote in this State by reason of his ailure to possess the educational or propty qualification prescribed by this Constitution: provided he shall apply for gistration and shall have registered in ordance with the terms of this article ior to September 1, 1898, and that no son shall be entitled to register under section after said date."

From the point of view of its originators e system has proved very successful. The "naturalization" and "grandfather" auses furnish loopholes for practically l the poor and illiterate whites; while ice in none but a very few States re negroes entitled to vote on January 1867, they let in practically none of the or and illiterate of that race. Consentl, though the system has not exluded all negroes from the polls, it has luced the number of such voters to a very low figure, as a comparison of the following figures will show.

On January 1, 1897, the total number of registered voters throughout the State (under Act 123 of 1880) was as follows (figures incomplete):

Whites	164,088
Negroes	130,344
Literate whites	133,608
Whites who made their X mark	28,371
Literate negroes	33,803
Negroes who made their X mark	94,498

The registration for the election of 1900 under the Constitution of 1898 was as follows:

Whites	125,437
Negroes	5,320
Registration under "grandfather" and "naturalization" clauses	29,189
Whites coming in under educational qualification	86,157
Whites coming in under property qualification	10,793
Negroes coming in under educational qualification	4,327
Negroes coming in under property qualification	916

Among other things, these figures reveal also the fact that neither all the blacks nor all the whites who are qualified to do so have registered under the present laws. Even of those registered very far from all take the trouble to cast their ballots. In the last Presidential election the total vote was but 67,479—for McKinley 14,554, for Bryan 52,925—about one-half the registration, or one-fourth the total number of males of voting age. This indifference is largely owing to the fact that the present system leaves the Republican party not the slightest hope of succeeding in anything. Consequently the negroes, who are almost all Republicans, feel that it is useless to vote; while the whites, who are almost all Democrats, feel that it is unnecessary. "What is the use of voting when we can't have the slightest effect on the result?" Many negroes qualified to register have said in substance to the writer: "We should only gain the ill will of the whites and run the risk of bad treatment."

Whether or not there is a great deal of partiality in administering the educational provision is difficult to determine. In the course of an extended investigation I found that nearly every negro claims that there is much of it—that registration officers have one educational standard for the negro and another for the white. I have been told of many cases of well-educated colored men being refused the right to register on the ground that they did not come up to the proper standard. A particular case is that of the vice-principal of one of the largest colored schools in New Orleans. This man, a graduate of Straight University and a lieutenant in the Spanish-American War, was rejected; and though he finally succeeded in registering, he did so only after considerable difficulty. It is claimed, however, that negroes who are Democrats have no trouble in registering. "Give them the wink that you'll vote the Democratic ticket, and they'll let you in all right enough," a bright negro one day said to me. On the other hand, most whites contend that no partiality is shown towards either race. Occasionally, however, one is met with who in a burst of confidence will tell you that although at present, with a total colored registration of but 5,320, there exists no need for unfairness, yet, were the necessity to arise, many registration officers would doubtless have two standards.

A personal experience will perhaps be suggestive in connection with this question of partiality. Having one day entered the New Orleans registration office in order to study the workings of the system, I at length fell into a discussion with the head deputy and a number of other men who happened to be in the room on the advisability of allowing negroes a share in the government. At first the discussion was a very commonplace one, and nothing was said by the deputy to lead one to believe that he would be otherwise than fair. Nevertheless, I felt that he was not giving me his real opinions; so, having discovered from much previous experience that the average Southerner rarely expresses himself freely on the suffrage question to a Northerner except when caught off his guard or when he is angry, I decided to set a trap for the deputy.

Accordingly, I proceeded to take advanced ground in favor of the negroes, and soon succeeded in drawing him out even beyond my utmost expectations, for, springing to his feet with a wild light in his eyes, he waved his arms frantically in the air and burst out with many oaths; he said:

"I was a member of the White Camelia in '74, and I've shot the damned rascals by the dozens! If I had my way, not one of the black scoundrels should come near the polls. . . ." And so on *ad infinitum*.

From that time forward I was inclined to regard stories told me by negroes of unfairness in registration offices with much less suspicion.

The feeling of the two races toward the present suffrage system is a subject of considerable interest. In my investigations I found that unquestionably the great majority of whites favor it. Their only regret is that it does not exclude all negroes. The words of President Kruttschnitt in summing up the work of the Convention that adopted it represented the prevailing white opinion at that time, and still represents it. Said he, referring to the restrictions imposed by the Fifteenth Amendment: "We have not been free; we have not drafted the exact Constitution we should like to have drafted; otherwise we should have inscribed in it, if I know the popular sentiment of the State, universal white manhood suffrage, and the exclusion from the suffrage of every man with a trace of African blood in his veins."

The truth is, the old feeling that the negro was expressly created by the Almighty to be servant to the white man is still strong in Louisiana, particularly in the country districts; and the ordinary Southerner regards with extreme disfavor any attempt of the colored man to attain equality, either social or political. "The nigger's all right in his place; when he tries to get out of it, hit him on the head, and next time he'll come in with his hat off," said a city official to me one day. Such is the attitude of the class of whites who are usually in the saddle; and this class, needless to say, are strong advocates of disfranchisement.

A more liberal view is taken by a comparatively small body of more progressive whites. While believing that the present system does much good by disfranchising a great deal of ignorance, they recognize

[fol. 199d]

the injustice of the "grandfather" and "naturalization" clauses, and regret that the requirements are not fair to both races. A portion of ~~the speech~~ of a Democratic member—they were all Democrats but one—of the Constitutional Convention, in explaining his vote on the suffrage article, is in point in this connection. Though voting in the affirmative, for the reason that the "measure, imperfect and defective though it is, will, in my opinion, bring about a vast improvement over existing conditions," he declared that he desired to go on record as opposed to section 5 the "grandfather" and "naturalization" section] and in favor of a straight educational or property qualification and a poll tax, to go into effect immediately; believing . . . that nine-tenths of those [white men] who would be disfranchised are utterly unfit for and therefore unworthy of the inestimable right of suffrage."

By no means all the whites who recognize the injustice of the system are so outspoken; for sentiments such as those given above are very far from popular with the general public. In this connection I recall with considerable amusement the caution displayed by a professor of history and political science in one of the universities of the State. In a talk I had with him it was easy for me to see that he believed the system unfair, yet I was unable to pin him down and get him to say so directly.

The great mass of the negroes regard the subject with comparative indifference. Accustomed, before the present system was adopted, to being deprived of his ballot by fraud or intimidation, the ordinary negro cares little that the fact of his disfranchisement is incorporated into the statute-books. "I'd done passed up votin' long befoh," he says; "so it's nothin' to me nohow."

Among the more intelligent a different spirit is shown. Most of these agree that restrictions on the franchise are desirable—that the amount of ignorance in the State (Louisiana is the second most illiterate State in the Union) is such that the interests of good government demand that certain classes be excluded from the polls; but they denounce the present system as the unjust outcome of unreasonable race prejudice, and they insist that an impartially administered educational qualification, or a property qualification, or the two taken as alternatives, would meet every legitimate need. In sustaining their contention they point to the unquestionable fact that the Italians and other poor and illiterate whites who come in under the "naturalization" and "grandfather" clauses are fully as low as, and in many cases even lower than, the corresponding class of negroes.

Whatever else may be his judgment on the Louisiana suffrage system, no one can deny that, were Congress to enforce the Fourteenth Amendment, the State—with a registration in 1900 of but 130,757 out of an adult male population of 325,943—would lose a very large part of her representation in the Lower House of Congress.

Needless to say, the whites of the State are almost to a man opposed to such a reduction. Most negroes, however, would be glad to see the Amendment enforced. Their reason for desiring such enforcement is that they dread still further reaction against their rights, and feel that interference by the Federal Government in the suffrage question would have a salutary deterrent effect.

In this connection I wish to quote the opinion of a member of the faculty of one of the negro universities in Louisiana. The man in question is a graduate of Vermont University, of the Yale Divinity School, has studied in Germany, and in addition possesses a thorough knowledge of race conditions in Louisiana, as well as an unusual sanity of view; consequently his words carry considerable weight. Said he to me:

"The outlook for the negro in this State is the worst I have known it for years. Encouraged by their success in the matter of the suffrage, negro-haters hope to make a successful assault on some of the negro's other rights. Already in the public schools of New Orleans they have succeeded in arranging matters so that no instruction is given negro children beyond the fifth grade. Such being the state of affairs, we earnestly believe that if the Federal Government would only say, 'Thus far shalt thou go and no farther,' it would have a happy effect."

Unquestionably there is some ground for apprehension on the part of the negroes. The Southern white man claims to understand the negro better than any one else does, and to a certain extent his claim is well founded; unfortunately, however, he understands him too much as a mere animal rather than as a man with latent capabilities to be developed. The result is that the position of the negro to-day is undoubtedly a hard one. On the plantations of Louisiana, with their "pluck-me stores" and other devices for leaving him a little poorer at the end of the year than he was at the beginning, he is still in a state of peonage but little better than slavery. The few poor rights that he does enjoy have all been granted as a result of outside pressure, and now that that pressure is removed there exists the danger that some of these rights may be lost. "At last the negro is going to be put into his place," is the exulting cry of many Southerners. That there may be still further reaction is not improbable. That such reaction will be permanent, however, is impossible. The negro problem is one which must be solved, and the only way to solve it is to make the negro—and also his white brother—a man. This can never be done by taking away his rights.

PLAINTIFF'S EXHIBIT No. 15B

(Article from—The Times-Picayune—February 27, 1921.)

(See Opposite)☞

TENSION ON TAX ISSUE WHILE MEMBERS MEET

Louisiana's Ninth Convention to Frame Constitution Opens in Baton Rouge Tuesday — Many Arrive. Wide Variance in Views on Many Points.

FIRST FACTS.

There are 146 deelgates.

It's Louisiana's ninth Constitutional Convention.

For the first time, women are to help draft organic law.

Lieutenant-Governor Bouanchaud and former Congressman Phanor Breazeale are candidates for its presidency.

As delegates gather, there is evident high tension on several issues, most striking that of taxation, with one school urging an income tax, and much quiet backing therefor from those who want the severance tax on natural resources discontinued.

BY W. D. ROBINSON

(Staff Correspondent of The Times-Picayune)

Baton Rouge, La., Feb. 26.—Louisiana's Constitutional Convention called by the 1920 Legislature under approval by the people last November, convenes at noon Tuesday, March 1, in the House of Representatives to frame a new body of organic law.

The gathering will be the ninth of the kind held since Louisiana entered the union. The first was in 1812, the others in 1845, 1852, 1864, 1868, 1879, 1898 and 1913.

There are 1[illegible] [illegible]

TENSION ON TAX MEASURES HIGH AS MEET NEARS

Only three limitations are placed upon the convention by the act of call:

1. Prohibiting the repealing of any article or provision whereby the bonded indebtedness of the state or any of the subdivisions thereof may be affected.
2. Prohibiting the reduction or shortening of the terms of office of any public officer in the state.
3. Forbidding the removal of the state capital from Baton Rouge.

The Supreme Court holds that a Constitutional Convention has no authority to go beyond the limitations of the act of call.

The convention has full power to reorganize all the state government departments, subdivisions and branches. It has also the power to frame and adopt a new constitution without submission to the people or to submit it if deemed best.

The length of the session is unlimited, but delegates cannot receive compensation for more than seventy-five days. Pay of the delegates is fixed at $5 per day, with mileage from home to Baton Rouge and return for not exceeding three trips during the session.

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OUTSTANDING SUBJECTS.

Pre-convention discussion reveals the following among outstanding subjects for consideration:

1. Revenue, taxation and assessments.
2. Revision of suffrage articles.
3. Reorganization of the judiciary system.
4. Public education.
5. Supervision and control of public utilities.
6. Conservation of natural resources, especially natural gas.
7. Rights and limitations of corporations.
8. Restricting the right of corporations to hold large tracts of land.
9. Affairs of the city of New Orleans.
10. Abolition or consolidation of boards and commissions and reduction of expenses of government.
11. Prohibition of the liquor traffic along the lines of the federal constitution.
12. Maintenance and support of state institutions.
13. Parish and municipal government reform.
14. Civil service for state, parochial and municipal employes.
15. Reduction of the size of the Legislature, increasing the pay of members and enlargement of the powers of that body.
16. Ways and means to curb political rings in the state, especially in the larger cities.
17. Initiative, referendum and recall.
18. Relocating lines of parishes bisected by Mississippi river.

DIFFERENCES AND TENSION.

Advance discussion discloses wide differences of opinion on some subjects enumerated.

Lively and interesting contests in the convention are sure.

Perhaps the biggest issue is that of taxation. Taxation that reaches into the pockets of every citizen, affects every business, stretches from farm to factory. Taxing power can be used to destroy, unless safeguards are placed in the constitution. The power can likewise be used to build up the state.

Practically every delegate is giving this subject the closest attention. All of them seem to realize that the future prosperity and development of Louisiana to a considerable extent, depends upon the taxation article that will be written into the new organic law.

Revision of the suffrage provision is necessary because the United States Supreme Court declared the famous "grandfather" clause invalid. This clause is so interwoven into the present suffrage provision that the whole article must be recast.

Already several substitutes have been proposed, among them the "understanding" clause from Mississippi, held valid by the Federal Supreme Court, the Connecticut clause requiring voters to possess a "good moral character," and the plan of Ex-Governor R. G. Pleasant to confine the right of suffrage to the descendants of those people who inhabited the earth north of the twentieth degree of north latitude prior to October 12, 1492, when Columbus discovered America. The purpose of his plan is to shut out the negro.

THE JUDICIAL QUESTION.

Reorganization of the judiciary system is another big issue. Various plans have been proposed, showing wide divergence of views. One attracting most attention is that of the special committee of the Bar Association for the creation of a Supreme Judicial Council. The whole question will be fought out at length.

Discussion has made it clear that many delegates favor abolishing justices of the peace and creating parish courts. The "Fay Fees," as they are commonly called, are in danger. Strong sentiment has also developed for abolishing ward constables, giving their duties to sheriffs and deputies.

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TENSION ON TAX MEASURES HIGH AS MEET NEARS

Continued from Page One

were elected by parishes on apportionment in the House of Representatives. Sixteen came, two from each congressional district. Twelve were appointed by the governor.

For the first time in the state, women will sit as members of a legal deliberative body. There are three women delegates, Mrs. J. E. Friend of New Orleans; Mrs. J. D. Wilkinson and Miss Edith Brown Baillio of Shreveport. Mrs. Friend and Mrs. Wilkinson were appointed by Governor Parker, and Miss Baillio was elected from Caddo parish.

2. Prohibiting the reduction or shortening of the terms of office of any public officer in the state.

3. Forbidding the removal of the state capital from Baton Rouge.

The Supreme Court holds that a Constitutional Convention has no authority to go beyond the limitations of the act of call.

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8. Restricting the right of corporations to hold large tracts of land.
9. Affairs of the city of New Orleans.
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11. Prohibition of the liquor traffic along the lines of the federal constitution.
12. Maintenance and support of state institutions.
13. Parish and municipal government reform.
14. Civil service for state, parochial and municipal employees.
15. Reduction of the size of the Legislature, increasing the pay of members and enlargement of the powers of that body.
16. Ways and means to curb political rings in the state, especially in the larger cities.
17. Initiative, referendum and recall.
18. Relocating lines of parishes bisected by Mississippi river.
19. Encouragement of the development of the natural resources.
20. Encouragement of the agricultural industry.
21. Regulations on the right of boards and commissions to make rules and regulations that carry penalties.
22. Development of the waterway system of the state.
23. Maintenance of levees, construction and maintenance of highways, and drainage and reclamation.

* * * * * *

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PLAINTIFF'S EXHIBIT No. 15C

(Article from—The Times-Picayune—March 3, 1921.)

(See Opposite) ☞

PIGEONHOLE FOR BEHRMAN'S PLAN

Committee to Hold Up This Resolution on Legislation

(Staff Correspondence New Orleans States)

STATE HOUSE, BATON ROUGE, La., March 3.—Thirty five committees, two more than in the Convention of 1898, will comprise the working bodies of this Convention.

The two new ones are: Conservation, fifteen members, and Roads and Drainage, fifteen members.

In other respects the 1921 organization follows the lines of the Convention of 1898. The Simpson project of rules was adopted in toto, with only a few minor changes.

Creation of committees featured the first meeting of the committee on rules and procedure, Wednesday night, presided over by Chairman Allen Sholars, which met in the Senate Chamber at 8 o'clock. It was near the stroke of 12 before either the rules committee or Tax Committee ended their day's labors.

There were other interesting features to the rules committee session.

It finally killed the resolution of Mr. Chappius, of Crowley, providing for a stenographic report of the proceedings of this Convention, estimated to cost $30,000, by a vote of 13 to 6.

Behrman Resolution Fought.

The resolution of Mr. Behrman, Orleans, to provide a committee of seven to pass upon bills and keep legislation out of the Constitution was taken up. After several sharp passages, chiefly as to whether there is "Legislation" in the 1898 Constitution, this committee shared the view of the Convention two days ago, when it declined to act on the Behrman resolution and moved to "hold it over."

Discussion of the Behrman resolution was spicy at times. Mr. Behrman made it plain he had no ax to grind in offering the measure.

"My only intent is to keep legislative matter out of the Constitution," he explained to the committee, of which he is a member. "I cannot be charged with having any personal interest, because this committee would be composed of men learned in the law and I am no lawyer. I believe it is a good resolution and ought to be passed."

Some Support It,

Frank E. Powell strongly supported the idea advanced in the resolution.

"I am not wedded to this particular resolution," said the DeRidder man, "but we should have some such safe guard. We all know the 1898 Convention is loaded up with legislative matter. We have been spending the time of legislatures and paying out

Walter J. Burke favored a committee, possibly the Committee on Style and Revision, to seek out all legislative matter in the existing Constitution and report same to the Convention.

"The Committee on Style and Revision is for final review of the finished instrument," interposed Colonel John P. Sullivan and others.

Ex-Governor Pleasant thought the Convention ought to be able to discriminate; "in other words, be its own clearing house."

Mr. Breazeale moved an unfavorable report, seconded by Delos R. Johnson. Several shouted no."

"How about holding it up awhile," said one addressing Mr. Behrman.

"Anything suits me," he said, in good humor. "I'm not wedded to the resolution and have no interest in it, save to secure a short, concise Constitution."

Chappuis Resolution Beaten

Delegate Chappuis argued his stenographic proposition at great length and presented documentary evidence show other states were preserving work of their Constitutional Con-tions with short hand reports.

"We owe it to the future generation," he opened.

Getting down costs, he said it could be done for less than $30,000 which would also absorb the cost of the daily journals, which will cost this convention between $3000 and $4000.

"Even if it costs $25,000," said he, "the Constitution will serve for 25 years at least, which would mean only $1000 per year."

Governor Pleasant, during the heat of debate, arose, with a broad smile.

"There might be one subject coming up for discussion which we would not care to have preserved in short hand," he said.

This committee caught the import that he referred to his Columbus Suffrage cause, and everybody smiled.

Phanor Breazeale moved a favorable report—that this committee recommend a stenographic report, provided it would not cost over $30,000.

Mr. Behrman seconded. Roll call the first ordered resulted in a vote of 13 nayes, six yeas as follows:

For unfavorable report—Sholars, Barret, Liverman, Pleasant, Walker, Mrs. Wilkinson, Burke Johnson, Maise, Sullivan, Powell, Gilbert, Jones, 13.

For favorable report—Breazeale, Behrman, Mrs. Baillie, Clinton, Hardtner, Chappuis.

The two woman members of the committee divided, Mrs. J. D. Wilkinson voting "no," Mrs. E. B. Baillie, also from Shreveport, voting an audible "YES."

Standing committees provided for follow:

Suffrage and Elections, 27 members; Distribution of Powers of Government, 13; Legislative Department, 17 Impeachment and Removal from Office, 9; Executive Department, 11; Judiciary, 21; General Provisions, 15 Amendments to the new Constitution, 15; Bill of Rights, 15; Limitations, 15, Public Education, 27; Finance and Banking, 21, Apportionment and Redistricting, 25; Schedule to the Constitution, 7, Federal Relations, 15; Militia, 9, Health, Quarantine and

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There were other interesting features to the rules committee session.

It finally killed the resolution of Mr. Chappius, of Crowley, providing for a stenographic report of the proceedings of this Convention, estimated to cost $20,000, by a vote of 13 to 6.

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Frank E. Powell strongly supported the idea advanced in the resolution.

"I am not wedded to this particular resolution," said the DeRidder man, "but we should have some such safe guard. We all know the 1898 Convention is loaded up with legislative matter. We have been spending the time of legislatures and paying out taxpayers' money ever since to amend it. I firmly believe that there should be some way of separating organic from legislative matter in this Convention."

Judge Philip H. Gilbert also approved the principle.

"The arbitrary feature, as it has been charged, might be removed by not making all ordinances referable to this committee, but for only those measures when a doubt arises," he said.

Phanor Breazeale, who sat in the Convention of 1898, stoutly denied the allegation that legislation had been written into that Constitution:

criminate; "in other words, be its own clearing house."

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PLAINTIFF'S EXHIBIT No. 15D

(Article from—The Times-Picayune—March 14, 1921.)

(See Opposite) ☞

PUBLIC HEARINGS BY COMMITTEES TO BE NUMEROUS

Heavy Calendar Tonight as Convention Resumes Its Work.

BY W. P. ROBINSON

Baton Rouge, La., March 12. A heavy calendar will confront the Constitutional Convention when that body reassembles Monday night at 8 o'clock. Ninetyfour ordinances have been introduced and referred to proper committees. When the standing committees are announced Monday night or Tuesday, these subdivisions of the convention will have their hands full. Public hearings will follow each other in rapid order when the committees get into action.

Another flood of ordinances dealing with taxation, retrenchment and reduction of public expenditures, which top the list of big issues before the convention, is expected. Among the ordinances looked for are those covering the program of the State Taxation Commission.

Next in important ordinances due to be introduced are those relating to reorganization of the judiciary system. Embraced in this list is the plan of the State Bar Association for judicial reform.

Ordinances designed to revise the suffrage clause of the constitution no doubt will make their appearance within the next week or ten days. Former Governor Pleasant will offer a substitute for the "grandfather" clause, declared invalid by the Federal Supreme Court. Up to date but one ordinance touching this phase of the suffrage question has been introduced. That was by Mr. Hardin of Vernon, carrying what is known as the Mississippi "understanding" clause, the validity of which has been sustained by the United States Supreme Court.

P. M. Milner of New Orleans and Senator T. L. Dowling of DeSoto, both of whom have plans for the construction and maintenance of a system of state highways, have been invited to address the convention. Introduction of highway ordinances no doubt will follow.

Incorporation in the new constitution of the present system of education, with a few changes, seems to be the program in dealing with the educational question.

No definite plan has been agreed upon in regard to drafting ordinances for safeguarding the state's natural resources. Conferences on this subject are to be held.

Regulation of public utilities, including railroads and public service corporations generally, is receiving the attention of many of the delegates, but no concrete plan has been worked out.

PLAINTIFF'S EXHIBIT No. 15E

(Article from—The Times-Picayune—March 22, 1921.)

(See Opposite) ☞

SHIFT OF TAXATION BURDEN TO OWNERS OF LEASES SOUGHT

Hot Fight Over Ordinance Involving Oil and Gas Promised.

PLAN'S OPPONENTS REACH BATON ROUGE

Thomas of Bienville Urges Change as Convention Reassembles.

Baton Rouge, La., March 21.—Reassembling Monday night for the fourth week of its work, the Constitutional Convention witnessed the beginning of one of the hottest fights of the session, when O. G. Thomas, delegate from Bienville, introduced an ordinance that will have the effect of shifting from land owners and placing upon the holders of productive oil and gas leases the burden of taxation.

Taxation of oil and gas lands and productive oil and gas leases has been a bone of contention of the oil and gas district for some time. At present oil and gas leases are not taxed in any form. There is no law authorizing the assessment and collection of such a tax. But there is a law that reaches the owners of the lands on which oil and gas wells are located.

The Board of State Affairs, in revising the assessment rolls of the different parishes, issued an order requiring the taxation of lands on which producing oil wells are located on a basis of production. Later the board announced that the same rule would apply to the gas well land owners when the assessment rolls for 1921 are made up.

These orders from the board aroused gas and oil land owners. They objected to the rules and objected that the tax load be shifted to the productive lease holders. The board of state affairs was unable to furnish any relief to the land owners, with the result that they have brought their fight to the Constitutional Convention. Introduction of the ordinance by Mr. Thomas was the first step in their contest. The oil and gas lease holders will oppose it, and the advance guard of that contingent reached Baton Rouge at the same time the Thomas ordinance made its appearance in the convention.

THOMAS ASKS JUSTICE

The ordinance provides:

"That all lands producing oil, gas, and other minerals shall be assessed to the owners on agricultural valuation and assessed at enhanced value

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SHIFT OF TAXATION BURDEN PROPOSED

Continued from Page One

that will embrace the names of all persons of voting age who register prior to January 1, 1922.

2. A requirement that voters must be able to read the constitution or understand the same when read to them.

3. Voters must have a good moral character and understand the duties of citizenship.

4. Disfranchisement of persons convicted of certain crimes.

Judge Pugh holds that these requirements or qualifications are judicially bombproof and will withstand any attack against their validity. The provision in regard to a permanent registration roll was patterned after a similar clause in the constitution of South Carolina.

Plans Reorganization of Judiciary System.

Provision is contained in an ordinance by Judge Pugh of Acadia for a complete reorganization of the judiciary system of the state. All judges are made elective. The ordinance provides for a supreme court of seven judges with salaries of $8000 a year and with fourteen-year terms of office. Four courts of appeals are created, with three judges to each court, at salaries of $6000 a year and with terms of twelve years. Not more than twenty-five district judges are to be elected, with eight-year terms at salaries of $4000 each annually.

Wire Companies Ordered to Speed Messages.

Dr. A. F. Barron of West Feliciana introduced an ordinance providing that all telegraph and telephone lines operated for hire shall receive and transmit each other's messages without delay or discrimination and make and maintain connections with each others lines and exchanges under such rules and regulations as may be prescribed by the railroad commission.

Tax Ordinances Offered By St. Landry Man.

Mr. Sandoz of St. Landry introduced an ordinance to take the place of Article 225 of the Constitution relating to taxation. It provides:

"Taxation shall be equal and uniform throughout the territorial limits of the authority levying the tax and the property shall be taxed in a manner directed by law; provided that property located wholly within incorporated cities and towns of this state which maintain their own streets, sidewalks, lights, etc., shall only be taxed one-half the amount levied against property by the several parishes for parish purposes; and provided that the valuation of property for the assessment of state taxes, levied by the Legislature and by this Constitution may be different from

Orleanians Assigned To Two Committees.

President Bouanchaud appointed Messrs. Claiborne, Rosen, Sullivan, Behrman, Viosca and Kittredge as members of the committee on parochial and municipal affairs and Messrs. Phelps, Williams, Stafford and Byrnes on the judiciary committee. These were former members of the committee on affairs of the city of New Orleans, which was abolished last week under the Phelps resolution. The other seven members of the late city affairs committee will be provided for later.

Postmaster Appointed Deputay Fire Marshal.

Thomas H. Ligon, postmaster for the Constitutional Convention, has been appointed deputy state fire marshal for this section of the state. This being the seat of the state government and there being other state institutions near here the need of a state fire marshall for this part of the state has been stressed for some time. Mr. Ligon was endorsed by the most prominent men of the state. His duties will be confined primarily to the eastern section of the state but he is subject to call to any part of the state.

Parish Government Reform Provided.

Another ordinance for parish government reform was brought in by Judge Pugh. It provides that the affairs of all parishes, Orleans excepted, shall be under the control of a board of supervisors composed of not less than three nor more than five men, who shall own real estate and shall have the necessary educational qualifications to be fixed by the Legislature. The board shall have complete control of all matters relating to parish affairs comprising roads, drainage, schools and all other matters, and shall appoint the necessary officials to manage same, removable at their pleasure. The board is required to divide the parish into as many districts as may be necessary and one member shall be a resident of each district but shall be elected by the people at large. Each supervisor or police juror shall be ex-officio justice of the peace in his respective district and shall have all the powers now existing or hereafter conferred by law upon justices of the peace.

Dock Board Overlapping Terms Provided.

Ordinances were introduced by Mr. Cummings of the Second Ward, New Orleans re-enacting the provisions in the present constitution relating to the judicial expense fund, the mortgage and conveyance office, the judicial depository and the judicial officers of New Orleans.

He announced that he will on Tuesday in an ordinance dealing with the district courts at New Orleans that will embrace several changes in the judicial system of the city.

Judicial System Changes in City to Be Asked.

Baton Rouge, La., Mar. 21.—Former Senator Simmons of St. Martin in a statement given out here Monday night, charged that danger to all corporations productive oil and gas leases has been a bone of contention of the oil and gas district for some time. At present oil and gas leases are not taxed in any form. There is no law authorizing the assessment and collection of such a tax. But there is a law that reaches the owners of the lands on which oil and gas wells are located.

The Board of State Affairs, in revising the assessment rolls of the different parishes, issued an order requiring the taxation of lands on which producing oil wells are located on a basis of production. Later the board announced that the same rule would apply to the gas well land owners when the assessment rolls for 1921 are made up.

These orders from the board aroused gas and oil land owners. They objected to the rules and objected that the tax load be shifted to the productive lease holders. The board of state affairs was unable to furnish any relief to the land owners, with the result that they have brought their fight to the Constitutional Convention. Introduction of the ordinance by Mr. Thomas was the first step in their contest. The oil and gas lease holders will oppose it, and the advance guard of that contingent reached Baton Rouge at the same time the Thomas ordinance made its appearance in the convention.

THOMAS ASKS JUSTICE

The ordinance provides:

"That all lands producing oil, gas and other minerals shall be assessed to the owner on agricultural valuation and assessed on enhanced valuation caused by production of oil, gas and other minerals to parties in proportion as production is divided or the interest of the parties as may appear."

Mr. Thomas, who is a business man of [illegible] parish, takes the view that the oil and gas land owners are carrying the heavy end of the tax load and he proposes to divide it on a basis of the benefits derived. The oil and gas land owners receive a royalty, and his ordinance would not tax the land owners any greater amount than the agricultural value of the land, plus the royalty.

"I would say," Mr. Thomas said, "this plan I propose would give relief to owners of oil and gas land. It equally distributes the increased assessment to all parties concerned. I think this should go in the constitution because it would settle this matter definitely. It would automatically adjust itself as the production increased or diminished.

"The land owner usually gets one-eighth, and in some cases only one sixty-fourth; the proceeds in many cases are practically exhausted in taking care of the increase in taxes. This is not just to the land owner."

Substitute for Grandfather Clause Offered.

An ordinance designed to plug the hole shot through the suffrage provision of the present constitution when the Supreme Court of the United States declares the famous "grandfather" clause invalid, was introduced in the Constitutional Convention Monday night by Judge Philip S. Pugh, of Acadia. The ordinance carries four articles to take the place of the "grandfather" clause, namely:

1. A permanent registration roll

Continued on Page Four

for a supreme court of seven judges with salaries of $8000 a year and with fourteen-year terms of office. Four courts of appeals are created, with three judges to each court, at salaries of [illegible] a year and with terms of twelve years. Not more than twenty-five district judges are to be elected, with eight-year terms at salaries of $4000 each annually.

Wire Companies Ordered to Speed Messages.

Dr. A. F. Barron of West Feliciana introduced an ordinance providing that all telegraph and telephone lines operated for hire shall receive and transmit each other's messages without delay or discrimination and make and maintain connections with each others lines and exchanges under such rules and regulations as may be prescribed by the railroad commission.

Tax Ordinances Offered By St. Landry Man.

Mr. Sandoz of St Landry introduced an ordinance to take the place of Article 225 of the Constitution relating to taxation. It provides:

"Taxation shall be equal and uniform throughout the territorial limits of the authority levying the tax and the property shall be taxed in a manner directed by law; provided that property located wholly within incorporated cities and towns of this state which maintain their own streets, sidewalks, lights, etc., shall only be taxed one-half the amount levied against property by the several parishes for parish purposes; and provided that the valuation of property for the assessment of state taxes, levied by the Legislature and by this Constitution may be different from the valuation fixed for all other purposes; provided further, the assessment of all property shall never exceed the actual cash value thereof; and provided, further, that the taxpayers shall have the right of testing the correctness of their assessments before the courts of justice."

under the control of a board of supervisors composed of not less than three nor more than five men, who shall own real estate and shall have the necessary educational qualifications to be fixed by the Legislature. The board shall have complete control of all matters relating to parish affairs comprising roads, drainage, schools and all other matters, and shall appoint the necessary officials to manage same, removable at their pleasure. The board is required to divide the parish into as many districts as may be necessary and one member shall be a resident of each district but shall be elected by the people at large. Each supervisor or police juror shall be ex-officio justice of the peace in his respective district and shall have all the powers now existing or hereafter conferred by law upon justices of the peace.

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He announced that he will on Tuesday in an ordinance dealing with the district courts at New Orleans that will embrace several changes in the judicial system of the city.

Judicial System Changes in City to Be Asked.

Baton Rouge, La., Mar. 21 – Former Senator Simmons of St Martin in a statement given out here Monday night, charged that danger to all corporations in the state lurks in an ordinance introduced in the Constitutional Convention by Mr. Dale of Concordia.

"Every stockholder," Mr. Simmons' statement reads, "and every officer and director of every corporation of every kind in this state should give immediate attention to the ordinance by Delegate Dale of Concordia.

PLEA FOR RIGHT TO VOTE IN LOUISIANA

Colored Delegation Presents Its Views To Convention

(Staff Correspondence New Orleans States)

STATE HOUSE, Baton Rouge, La., March 31.—A large delegation of negro citizens of the State, from New Orleans, Shreveport and the parishes, appeared before the suffrage and educational committee Thursday and pleaded for the ballot on the one hand and for greater educational facilities on the other.

They ask for the ballot on educational and property provisions.

"We are satisfied with these qualifications," they said.

They do not look upon the "understand clause" with any favor. They said it is a two-edged sword and will cut two ways—against whites as well as blacks.

Bishop R. E. Jones, chairman, made the plea for the suffrage, in part as follows:

"We base our plea upon our numbers. [illegible] per cent of the total population of the State of Louisiana belong to our group. Not that all would vote under any sort of constitutional provision, even though it were liberally interpreted in our favor, but that there should be a total [illegible] of [illegible] of human beings who [illegible] a place as we do in the industrial, agricultural, commercial and domestic life of the State should not be possible in this day of progress [illegible]

[illegible] Of Land

"We base our plea upon our aggregate [illegible]. We have been operating as many as [illegible] farms with an acreage of [illegible] acres, [illegible] of which are approved farms producing crops valued over [illegible] annually.

"We own and operate four State-wide [illegible] life insurance companies, together having a total annual collection in premiums of over $750,000. We have fully 90 per cent of the male adults, and 75 per cent of the female adults of our group in gainful occupations.

"[illegible] and are engaged in over 75 kinds of business enterprises outside of farming. We have six colleges of our own, 30 agricultural, industrial and manual training, and many primary and denominational schools; and we have 11 farm demonstration agents."

In the delegation appearing were: Bishop R. E. Jones, Prof. J. S. Clark, president of Southern University; Jas. G. Lewis, grand master of Masons; S. W. Green, grand chancellor of Pythians; E. V. [illegible], head of colored Odd Fellows; Walter L. Cohen, head of several business interests in New Orleans; Dr. J. H. Lowery, Albert

(Staff Correspondence New Orleans States)

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They do not look upon the "understand clause" with any favor. They said it is a two-edged sword and will cut two ways—against whites as well as blacks.

Bishop R. E. Jones, chairman, made the plea for the suffrage, in part as follows:

"We base our plea upon our numbers. Forty-two per cent of the total population of the State of Louisiana belong to our group. Not that all would vote under any sort of constitutional provision, even though it were liberally interpreted in our favor, but that there should be a total disfranchisement of [illegible] of human beings who occupy such a place as we do in the industrial, agricultural, commercial and economic life of the State should not be possible in this day of progress and democracy.

Statistics on Race.

"We base our plea upon our aggregate wealth. We have been operating as many as [illegible] farms with an acreage of [illegible] acres, [illegible] of which are improved farms producing crops worth over [illegible] annually.

"We own and operate four State-wide [illegible] life insurance companies, together having a total annual collection in premiums of over [illegible]. We have fully 90 per cent of the male adults and 75 per cent of the female adults of our group in gainful occupations.

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Prof. Clark made the presentation before the committee on education, which included:

"We humbly petition you for a State normal school for the training of colored people for the definite work of teaching in the public schools of the State. Such a school, located in another section of the State, would increase the worth of the colored people of the State, and thus give a larger opportunity to those of our race who desire to be trained for public school room service. Such a school is very much needed, and would be highly appreciated by every colored person in the State of Louisiana. It would have the unstinted support of the colored people, and would mean much to the teaching profession."

PLEASANT BILL N SUFFRAGE READY

Submits Plan To Make Columbus Descendants Voters

(Staff Correspondence New Orleans States.)

STATE HOUSE, BATON ROUGE, La., April 8.—Ex-Governor Pleasant, chairman of the committee on suffrage and elections, submitted his ordinance on suffrage qualifications, popularly known as his Christopher Columbus ancestry bill, intended to abridge and cover the provisions of the grandfather clause. It reads:

The following persons, and no others, shall be electors and shall be entitled to vote at any election in the state by the people (except as may be otherwise provided hereafter in this constitution) if he or she possesses the additional qualifications desired in sections 2 and 3 of this article:

Section 1. Every citizen of this state and of the United States, native born or naturalized, not less than twenty-one years of age.

(A) All of whose ancestors, as shown by historical and anthropographical evidence, inhabited any portion of the earth north of the twentieth degree of north latitude immediately previous to the discovery of America by Christopher Columbus in the year one thousand four hundred and ninety-two, Anno Domini; the suffrage franchise being herein recognized in these citizens as an intellectual right inherited from these peoples of the world whose creative genius and civilizations have made the discovery of America and the establishment of the government of the State of Louisiana and the government of the United States potent realities.

(B) Or who shall possess such educational qualifications as the legislature shall prescribe.

Section 2.—He or she shall have been an actual bona fide resident of the state for two years, of the parish for one year and of the precinct in which he or she offers to vote for three months next preceding the election; provided that the removal from one precinct to another in the same parish will not operate to deprive any person of the right to vote in the precinct from which he or she has removed until six months after such removal.

Section 3—He or she shall have been, at the time of offering to vote, legally enrolled as a registered voter on his or her personal application, in accordance with the provisions of this constitution and the laws enacted thereunder.

PLAINTIFF'S EXHIBIT NO. 15F

(Article from—New Orleans States—March 31, 1921.)

(See Opposite) ☞

Plaintiff's Exhibit No. 15G

(Article from—New Orleans States—April 8, 1921.)

(See Opposite) ☞

PLAINTIFF'S EXHIBIT NO. 15H

STATE [illegible] TIMES —MONDAY, MAY 9, 1921.

GRANDFATHER CLAUSE CUT OUT CONSTITUTION

Printed Schedule is Put on Desks of Members of Convention.

UNDERSTANDING CLAUSE PROVIDED

Must Be Able to Read and Write and Understand Constitution to Vote.

When delegates to the constitutional convention return to the capital Monday night for the 11th week's session of the convention they will find on their desks the printed schedule of the suffrage and elections committee. The printed bill was sent to the printers on Saturday afternoon by Gov. R. G. Pleasant, chairman of the committee.

The bill does not contain the proposal made by Governor Pleasant that only those inhabited any portion of the earth north of the twentieth degree of north latitude previous to the discovery of this country by Columbus, should have the right of suffrage. Neither does it contain the [illegible] unit plan of voting in the state by which all officials would be elected through an electoral college system.

The deliberations and discussions of the committee were conducted with much secrecy. Most of the committee sessions were executive and a strict injunction on not discussing the provisions of the schedule was observed by the members. The gist of the report which contains a great many of the provisions of the 1898 constitution, follows:

The grandfather clause is eliminated and there is substituted an understanding and good character clause and there also is an educational qualification provision. The property qualification provision contained in former constitutions is eliminated.

A new article provides for the appointment of a parish registrar of voters in each parish by the lieutenant governor and speaker of the house. This article was adopted by a majority vote of a divided committee.

The residential requirements of two years in the state and one year in the parish was retained but the precinct residence was cut down from six months to three months. The legislature is authorized to provide for absentee voting by such means other than by mail.

Elections in all parishes of municipalities with a population over [illegible] are held on the same day as state elections, which means they will [illegible].

Women tax payers are placed on the same basis as the men taxpayers and their vote is passed at special elections requiring a majority of persons and property. This provision was adopted at the request of some of the leading women of the state.

Disputed questions on matters of registration must be tried before a jury of 12, of which nine can concur. An added article provides for the punishment of bribe givers or takers in elections and provision is made for [illegible], for the person who first informed.

Practically all of the other provisions in the [illegible] constitution are regarded as covering the remaining articles in the schedule. The new measure contains [illegible] articles.

NEW ORGANIC LAW OF STATE PRACTICALLY COMPLETED

Extension Saved Convention From Failure; Work Reviewed

Staff Correspondence New Orleans States

STATE HOUSE, BATON ROUGE, La., June 11.—When the Constitutional Convention adjourned Saturday afternoon until Monday it had practically completed its labors.

Numerous legal delays must be observed and it will not be until next Thursday or Friday that the Convention of 1921 will finally adjourn sine die, but its calendars are practically clear. The judiciary schedule was finally passed, late Friday night, by a vote of 106 to 11, and severance tax was adjusted by compromise (if it stays put), which was the last of the big issues to be settled and passed along.

The co-ordination committee has suffrage and elections, severance tax, drainage and a number of minor ordinances in hand, but by sitting through Saturday night, Chairman Walter J. Burke said he expected to have everything back in the Convention Monday night, upon the assembling, ready to take their places in the final run off.

The taxation schedule came back into the Convention Saturday, after consideration by the committee on taxation in a series of public conferences, referred to co-ordination and thus put through the finishing touches.

New Organic Law Written

Louisiana's new organic law has been written.

It will not be submitted to the people for their ratification or rejection. Submission was defeated Friday, by a vote of 81 to 56. Powerful influences have been at work from the opening day against the submission and Administration leaders on the floor of the Convention were openly against sending the instrument back to the people. It was soon apparent in the early stages that submission never had a chance. The committee on schedule, was solidly against the plan, and when, after easing it along for weeks and weeks, the measure was finally brought out of committee, it was tagged with an unfavorable report 6 to 3.

c

At the opening of the Convention a number of the prominent members, speaking of submission, stated their positions about as follows:

"If we write a constitution we are willing to sign, we will be against submission."

With possibly one rare exception, these members finally voted against submission. They have written a constitution based on their own statement, with which they are satisfied.

Extension Saved It

Taken as a whole, the instrument is believed to be a good one; far better than was believed possible, when the first limitation of 75 days expired and the Convention extended its life four weeks. The Convention, fully appreciating how nearly it was on the rocks at that time, righted itself, took on a new lease of life and buckled down to work.

The result has been good.

Persons in position to know believe the State will have a good organic law, shorter and with much less legislative matter than constitution of 1898.

In fact, taking the constitution of 1898 as a working basis—the product of master minds of the state at that time—it has been improved upon in many particulars and the result as it stood out, Saturday, was satisfying.

The co-ordination committee, headed by Walter J. Burke, and six other strong men, have done excellent work in whipping the final ordinances into a completed whole.

When the Convention was called, there were four great organic subjects claiming attention:

Taxation, in all its ramifications.

Suffrage, to meet new conditions, women voting, etc.

Judiciary, a clogged calendar from top to bottom, demanding relief.

Roads, some adequate system of pulling Louisiana out of the mud.

Of course, there were numerous other subjects, but the real work of this convention has revolved around these heads.

Briefly, all four subjects have been tackled and handled to the general satisfaction of the 146 members.

Taxation, Suffrage

The taxation committee, as is usually the case, discarded for the most part, the report and recommendations of a State Taxing Commission that had traveled over the country, and submitted a set of findings. It set about to write a new system of its own, which it has done. It has limited state advalorem taxes to 5 1-4 mills, with a possible emergency limit of 5 3-4. It has provided for a system of classified property taxes and after weeks of wrangling, backing and filling, adopting and moving to reconsider, it finally adopted a compromise income tax plan for the state of three per cent with offsets which

(Continued on Page Four.)

[fol. 211]

PLAINTIFF'S EXHIBIT No. 18

[Letterhead of State of Louisiana, Board of Registration, Baton Rouge.]

September 7, 1962

Miss Mary Ethel Fox
Registrar of Voters
Plaquemines Parish
Pointe-a-la-Hach, Louisiana

Dear Miss Fox:

We are enclosing herewith a copy of a resolution recently adopted by the State Board of Registration with reference to the installation of a system of uniform procedures for the registration of voters in all parishes of the State of Louisiana. We are enclosing a set of detailed instructions, which you are to put into effect immediately, in accordance with the mandate of the aforementioned resolution.

The State Board of Registration and its employees have devoted considerable thought and effort to the production of this program, in order to have uniform enforcement of state voter qualification laws. All interested parties are in agreement that a uniform system is absolutely necessary to insure uniform registration of all applicants. We realize that many questions will arise and many problems will present themselves, so we ask that you feel free to direct your inquiries to this office and we assure you they will receive our prompt attention.

You are instructed, under Acts 62 and 63 of 1962, to put the described system into effect immediately.

Representatives of the State Board of Registration will contact you in person from time to time hereafter to render such assistance as might be needed and to aid in your compliance with the instructions enclosed herein.

Yours very truly,

/s/ HUGH E. CUTRER, JR.
Hugh E. Cutrer, Jr.
Director

HECjr/mmc

Enclosures

[fol. 212]

INSTRUCTIONS TO REGISTRARS

Steps of Procedure to Be Followed by Registrars and Their Deputies According to Louisiana Law

1. The Registrar or Deputy Registrar shall interview and give examinations to only one applicant at a time. Applicants should not be near each other, in order to keep one from interfering with another during registration and examination. No other person shall be present for any purpose except the authorized representative of the State Board of Registration. During these examinations, no applicants except those being registered by the Registrar or his deputy should be permitted in the Registrar's office.

2. Have applicant properly identified.

3. If applicant has been registered in another parish of the state, take up registration card or certificate from previous parish or have applicant sign affidavit to be returned to his former parish for cancellation.

4. Registrar shall furnish applicant with card (identified as Form 11), so applicant can do the following:

   A. Execute affidavit.

   B. Read and write a portion of the preamble to the United States Constitution from dictation by the Registrar.

   C. Take citizenship test for registration.

   In order to have applicant complete his citizenship test, the Registrar must have applicant select one of ten cards numbered Form No. 1 through Form No. 10, which cards contain the questions for such test. Cards for selection should be displayed, face-down, to the applicant. After applicant selects his card, the Registrar, for identification, immediately circles in ink the number of the card selected by applicant, in the space provided on Form No. 11 entitled (Question Form Selected).

D. Complete balance of Form No. 11 which includes parish, date, signature of applicant, ward, precinct and address.

5. Registrar shall choose at random one of the five LR-1 cards; and after filling out applicant's home address, ward and precinct the registrar hands the form to applicant for completion. In the case of a married woman, Registrar should instruct her to write her first name, maiden name or initial, and married name.

6. Applicant should not be qualified or rejected by the Registrar or Deputy until all forms are completed.

7. If applicant fails the citizenship test on Form No. 11 or fails to properly fill out Form LR-1, both cards should be attached and filed alphabetically as provided by law.

8. If applicant correctly fills out application (Form LR-1) and passes the citizenship test appearing on Form No. 11, Form No. 11 is to be attached to Form LR-1 for permanent filing. Applicant should then sign permanent registration voting certificate in duplicate, in case of permanent registration, or, where four year registration is in effect, the applicant must sign the proper precinct register, and the Registrar or Deputy must write out a registration certificate and give same to applicant. (In case of permanent registration, the confirmation post card notice is filled in later by the Registration Office and mailed to the address as shown on the registration application).

[fol. 213]

FOREWORD

To provide uniformity in Louisiana's voter registration, your State Registrar has standardized and simplified the tests which are required to qualify applicants to vote.

This was accomplished with the advice and assistance of many of the parish registrars, legislators, public officials, and numerous interested citizens.

Louisiana's Constitution requires that each applicant shall be a person "attached to the principles of the Constitution of the United States and of the State of Louisiana . . . . ", "and that he must understand the duties and obligations of citizenship under a republican form of government.

Each applicant, in order to demonstrate his understanding of the duties and obligations of citizenship under a republican form of government, shall be required to answer any four out of six simple and basic questions printed on a card selected by him.

The answers are such that no discretion as to their correctness is left with the registrar, relieving him of this burden.

All records of questions and answers must be kept in permanent files in the Registrar's Office, and any registrant will be accorded his usual rights of appeal should his application be denied.

[fol. 214]

RESOLUTION
OF THE
STATE BOARD OF REGISTRATION

Whereas, the State Board of Registration, created and established by Article VIII, Section 18, of the Constitution of Louisiana, is authorized and empowered by L. R. S. 18: 191 et seq. to prescribe general rules and regulations, duly promulgated, and the character and forms of records, affidavits and other documents necessary or proper, in its opinion, to carry into effect the voter registration laws of this state; and,

Whereas, Article VIII, Section 1, of the Constitution of Louisiana, as last amended pursuant to Act 613 of 1960, prescribes qualifications for voting in this state and Section 32 of Title 18 of the Louisiana Revised Statutes of 1950 prescribes the form to be used for application for registration; and,

Whereas, it is in the public interest to standardize registration procedures throughout the state, with the view of relieving all Registrars of Voters and their deputies of all discretion in determining the qualifications of applicants for registration, thus lightening the burdens of said Registrars and deputies as well as insuring a non-discriminatory registration system, to be universally applied to the end that all qualified applicants be registered to vote; and,

Whereas, a set of instructions to Registrars and their deputies, outlining each step to be taken in the registration process, has been prepared with the view of insuring a uniform application of the registration laws applicable to the registration of voters; and,

Whereas, the aforementioned Article VIII, Section I, of the Constitution of Louisiana, in Paragraph (d) thereof, prescribes as one of the qualifications for voting in this state that a person seeking to qualify "must understand the duties and obligations of citizenship under a republican form of government"; and,

[fol. 215] Whereas, Paragraph (2) of L. R. S. 18:31 prescribes as one of the qualifications for eligibility for registration as a voter that the applicant "shall be of good character, and shall understand the duties and obligations of citizenship under a republican form of government"; and,

Whereas, in order to afford a standardized, universally applied procedure for determining that applicants for registration as voters possess a basic, elemental knowledge of our Constitution and Government and have the required understanding of the duties and obligations of citizenship under a republican form of government, a set of questions has been prepared and listed on ten cards, combinations of only six of said questions to be set forth on each card with the applicant for registration as a voter to choose one of said cards without any opportunity to see the questions contained on said cards displayed face-down before selecting same and said applicant to answer correctly at least four of the questions reflected on said card as a condition precedent to having his application for registration to vote accepted; and,

Whereas, a set of answers to all of said questions has been prepared in order that each Registrar of Voters and his deputies throughout the state will not be required to exercise any discretion in respect thereto,

Now, Therefore, Be It Resolved by the State Board of Registration that in order to effect uniform procedures for the registration of voters throughout the state and to insure a system of non-discriminatory registration of voters with the view of affording all qualified voters the same opportunity for successful registration, as well as to insure that such voters shall have a minimum or basic knowledge of the duties and obligations of citizenship under a republican form of government required by the laws of this state, and by virtue of the authority vested in said Board by the provisions of L. R. S. 18:191 et seq. said Board does by these presents prescribe and promulgate general rules and regulations and methods of administration of the Board of Registration laws of this state, together with the neces- [fol. 216] sary forms of records, affidavits, and other documents to be utilized by all Registrars of Voters throughout the State of Louisiana, as follows:

(1) The item entitled "Instructions to Registrars", attached hereto and marked "Exhibit A" for identification herewith.

(2) The item entitled "Affidavit" and bearing the designation "Form No. 11", attached hereto and marked "Exhibit B" for identification herewith.

(3) The items entitled "Do not write on this card" and bearing the designation "Form 1 through Form 10" attached hereto and marked "Exhibit C" for identification herewith.

(4) The items entitled "Application for Registration Form" and bearing the designation "LR-1-C through LR-1-G", attached hereto and marked "Exhibit D" for identification herewith.

(5) The item entitled "Question on Citizenship Test of our Constitution and Government" containing 43 questions numbered consecutively, attached hereto and marked "Exhibit E" for identification herewith.

PLAINTIFF'S EXHIBIT No. 15H

(Article from—State Times—May 9, 1921.)

(See Opposite) ☞

PLAINTIFF'S EXHIBIT No. 15 I

(Article from—New Orleans States—June 12, 1921.)

(See Opposite) ☞

(6) The item entitled "Answers to Questions on Citizenship Test of our Constitution and Government", attached hereto and marked "Exhibit F" for identification herewith.

The full texts of all of said exhibits are made a part of this resolution to the same extent as if all of said exhibits were copied herein in extenso.

Be It Further Resolved that the Director of Registration be and he is hereby authorized and directed to change and from time to time to rearrange the combinations of questions to be reflected by the cards from which the applicant for registration shall select a combination of six of the questions contained in Exhibit E.

[fol. 217] Be It Further Resolved that the Registrars be and they are hereby authorized and directed to change and from time to time to rearrange the Form LR-1 for application for registration provided, however, that the said application form contain the information required by Act 63 of 1962, LSA-R. S. 18:32.

Be It Further Resolved that the Director of Registration be and he is hereby authorized and directed to distribute copies of this resolution and all of the exhibits attached hereto and made a part hereof to all Registrars of Voters throughout the state with an appropriate letter of transmittal.

Be It Further Resolved that all resolutions of the State Board of Registration in conflict herewith, together with the exhibits thereto attached, be and said resolutions and said exhibits are hereby revoked, recalled, repealed and superseded by the provisions of this resolution.

CERTIFICATE

We, the undersigned members of the State Board of Registration, created and constituted by Article VIII, Section 18, of the Constitution of Louisiana, as last amended pursuant to Act 622 of 1960, do hereby certify that the above and foregoing resolution was duly adopted at a meeting of said Board of Registration held at the State Capitol Building in the Parish of East Baton Rouge, State of Louisiana, on the 3rd day of Aug., 1962, at which the undersigned members of said Board of Registration were present and voting.

Thus Done and Signed at the State Capitol Building in Baton Rouge, Louisiana, on this the 3rd day of Aug., 1962.

/s/ J. H. Davis
Governor

/s/ C. C. Aycock
Lieutenant Governor

/s/ J. Thos. Jervel
Speaker of House of Representatives

[fol. 218]

Resolution of The State Board of Registration

Whereas, the State Board of Registration, created and established by Article VIII, Section 18, of the Constitution of Louisiana, is authorized and empowered by L. R. S. 18:191 et seq. to prescribe general rules and regulations, duly promulgated, and the character and forms of records, affidavits and other documents necessary or proper, in its opinion, to carry into effect the voter registration laws of this state; and,

Whereas, Article VIII, Section 1, of the Constitution of Louisiana, as last amended pursuant to Act 613 of 1960, prescribes qualifications for voting in this state and Section 32 of Title 18 of the Louisiana Revised Statutes of 1950 prescribes the form to be used for application for registration; and,

Whereas, it is in the public interest to standardize registration procedures throughout the state, with the view of relieving all Registrars of Voters and their deputies of all discretion in determining the qualifications of applicants for registration, thus lightening the burdens of said Registrars and deputies as well as insuring a non-discriminatory registration system, to be universally applied to the end that all qualified applicants be registered to vote; and, WHEREAS, a set of instructions to Registrars and their deputies, outlining each step to be taken in the registration process, has been prepared with the view of insuring a uniform application of the registration laws applicable to the registration of voters; and,

WHEREAS, the aforementioned Article VIII, Section I, of the Constitution of Louisiana, in Paragraph (d) thereof, prescribes as one of the qualifications for voting in this state that a person seeking to qualify "must understand the duties and obligations of citizenship under a republican form of government"; and,

WHEREAS, Paragraph (2) of L. R. S. 18:31 prescribes as one of the qualifications for eligibility for registration as a voter that the applicant "shall be of good character, and shall understand the duties and obligations of citizenship under a republican form of government"; and,

WHEREAS, in order to afford a standardized, universally applied procedure for determining that applicants for registration as voters possess a basic, elemental knowledge of our Constitution and Government and have the required understanding of the duties and obligations of citizenship under a republican form of government, a set of questions has been prepared and listed on ten cards, combinations of only six of said questions to be set forth on each card with the applicant for registration as a voter to choose one of said cards without any opportunity to see the questions contained on said cards displayed face-down before selecting same and said applicant to answer correctly at least four of the questions reflected on said card as a condition precedent to having his application for registration to vote accepted; and,

WHEREAS, a set of answers to all of said questions has been prepared in order that each Registrar of Voters and his deputies throughout the state will not be required to exercise any discretion in respect thereto.

NOW, THEREFORE, BE IT RESOLVED by the State Board of Registration that in order to effect uniform procedures for the registration of voters throughout the state and to insure a system of non-discriminatory registration of voters with the view of affording all qualified voters the same opportunity for successful registration, as well as to insure that such voters shall have a minimum or basic knowledge of the duties and obligations of citizenship under a republican form of government required by the laws of this state, and by virtue of the authority vested in said Board by the provisions of L. R. S. 18:191 et seq. said Board does by these presents prescribe and promulgate general rules and regulations and methods of administration of the Board of Registration laws of this state, together with the necessary forms of records, affidavits, and other documents to be utilized by all Registrars of Voters throughout the State of Louisiana, as follows:

(1) The item entitled "Instructions to Registrars," attached hereto and marked "Exhibit A" for identification herewith.

(2) The item entitled "Affidavit" and bearing the designation "Form No. 11," attached hereto and marked "Exhibit B" for identification herewith.

(3) The items entitled "Do not write on this card" and bearing the designation "Form 1 through Form 10" attached hereto and marked "Exhibit C" for identification herewith.

(4) The items entitled "Application for Registration Form" and bearing the designation "LR-1-C through LR-1-G," attached hereto and marked "Exhibit D" for identification herewith.

(5) The item entitled "Question on Citizenship Test of our Constitution and Government" containing 43 questions numbered consecutively, attached hereto and marked "Exhibit E" for identification herewith.

(6) The item entitled "Answers to Questions on Citizenship Test of our Constitution and Government," attached hereto and marked "Exhibit F" for identification herewith.

The full texts of all of said exhibits are made a part of this resolution to the same extent as if all of said exhibits were copied herein in extenso.

Be It Further Resolved that the Director of Registration be and he is hereby authorized and directed to change and from time to time to rearrange the combinations of questions to be reflected by the cards from which the applicant for registration shall select a combination of six of the questions contained in Exhibit E.

Be It Further Resolved that the Registrars be and they are hereby authorized and directed to change and from time to time to rearrange the Form LR-1 for application for registration provided, however, that the said application form contain the information required by Act 63 of 1962, LSA-R. S. 18:32.

Be It Further Resolved that the Director of Registration be and he is hereby authorized and directed to distribute copies of this resolution and all of the exhibits attached hereto and made a part hereof to all Registrars of Voters throughout the state with an appropriate letter of transmittal.

Be It Further Resolved that all resolutions of the State Board of Registration in conflict herewith, together with the exhibits thereto attached, be and said resolutions and said exhibits are hereby revoked, recalled, repealed and superseded by the provisions of this resolution.

LEGAL REQUIREMENTS FOR REGISTRATION

Section 1 of Article VIII of the Louisiana Constitution, as amended by the voters of the State in 1960, provides that the right to vote in Louisiana shall not exist except under the provisions of the State Constitution, and: That, to be an elector, a citizen shall demonstrate his ability to read and write by the reading and writing from dictation given by the Registrar of any portion of the preamble of the Constitution of the U. S. A., except that this provision shall not apply to persons who are registered as of November 8, 1960. That he shall be of good character and shall understand the duties and obligations of citizenship under a republican form of government, and attached to the principles of both Constitutions; and, further, that he shall not have been convicted and sentenced for certain crimes; nor shall he have lived in common law marriage or have had an illegitimate child within the prescribed period.

[fol. 219]

Form No. 1

DO NOT WRITE ON THIS CARD

Applicant must correctly answer any four of the following six questions so as to evidence an elemental knowledge of the Constitution and Government, an attachment thereto, and a simple understanding of the obligations of citizenship under a republican form of government.

1. The church that we attend is chosen—
   - a. by the National Government.
   - b. by ourselves.
   - c. by the Congress.
2. The President must be at least—
   - a. twenty-five years old.
   - b. thirty years old.
   - c. thirty-five years old.
3. It is important for every voter—
   - a. to vote as others tell him to vote.
   - b. to vote for the most popular candidates.
   - c. to vote for the best qualified candidates.
4. The name of our first President was—
   - a. John Adams.
   - b. George Washington.
   - c. Alexander Hamilton.
5. The Constitution of the United States places the final authority in our Nation in the hands of—
   - a. the national courts.
   - b. the States.
   - c. the people.
6. The President of the Senate gets his office—
   - a. by election by the people.
   - b. by election by the Senate.
   - c. by appointment by the President.

Applicant's answers must be provided on Form No. 11 furnished by the Registrar for permanent records.

This card must be returned to the Registrar

Form No. 2

DO NOT WRITE ON THIS CARD

Applicant must correctly answer any four of the following six questions so as to evidence an elemental knowledge of the Constitution and Government, an attachment thereto, and a simple understanding of the obligations of citizenship under a republican form of government.

1. The Congress cannot regulate commerce—
   a. between States.
   b. with other countries.
   c. within a state.
2. The general plan of a State government is given—
   a. in the Constitution of the United States.
   b. in the laws of the Congress.
   c. in its own State constitution.
3. The name of our first President was—
   a. John Adams.
   b. George Washington.
   c. Alexander Hamilton.
4. The President gets his authority to carry out laws—
   a. from the Declaration of Independence.
   b. from the Constitution.
   c. from the Congress.
5. Our towns and cities have delegated authority which they got from the—
   a. State.
   b. Congress.
   c. President.
6. A citizen who desires to vote on election day must, before that date, go before the election officers and—
   a. register.
   b. pay all of his bills.
   c. have his picture taken.

Applicant's answers must be provided on Form No. 11 furnished by the Registrar for permanent records.

This card must be returned to the Registrar

[fol. 221]

Form No. 3

DO NOT WRITE ON THIS CARD

Applicant must correctly answer any four of the following six questions so as to evidence an elemental knowledge of the Constitution and Government, an attachment thereto, and a simple understanding of the obligations of citizenship under a republican form of government.

1. Limits are placed on the right to vote by the—
   - a. National Government.
   - b. States.
   - c. courts.
2. The Articles of Confederation are—
   - a. the Constitution we now have.
   - b. a plan for State government.
   - c. an early plan of government for the original 13 States.
3. The mail carrier is paid by the—
   - a. city.
   - b. State.
   - c. United States Government.
4. The President is elected—
   - a. for four years.
   - b. for six years.
   - c. for life.
5. The name of our first President was—
   - a. John Adams.
   - b. George Washington.
   - c. Alexander Hamilton.
6. The Congress cannot establish—
   - a. churches.
   - b. courts.
   - c. banks.

Applicant's answers must be provided on Form No. 11 furnished by the Registrar for permanent records.

This card must be returned to the Registrar

[fol. 222]

Form No. 4

DO NOT WRITE ON THIS CARD

Applicant must correctly answer any four of the following six questions so as to evidence an elemental knowledge of the Constitution and Government, an attachment thereto, and a simple understanding of the obligations of citizenship under a republican form of government.

1. The name of our first President was—
   a. John Adams.
   b. George Washington.
   c. Alexander Hamilton.

2. The President is elected—
   a. by the Congress.
   b. by the direct vote of the people.
   c. by the people through electors.

3. We usually decide public questions in the United States by a vote of the—
   a. few.
   b. majority.
   c. male citizens.

4. Bad government in a democracy is possible if the people—
   a. make wise votes.
   b. forget to vote.
   c. do not stay at home.

5. A government in which the people delegate authority to chosen officials is—
   a. a totalitarian state.
   b. a republic.
   c. a monarchy.

6. Laws for the District of Columbia are made—
   a. by the State of Maryland.
   b. by the Congress.
   c. by the people who live there.

Applicant's answers must be provided on Form No. 11 furnished by the Registrar for permanent records.

This card must be returned to the Registrar

[fol. 223]

Form No. 5

DO NOT WRITE ON THIS CARD

Applicant must correctly answer any four of the following six questions so as to evidence an elemental knowledge of the Constitution and Government, an attachment thereto, and a simple understanding of the obligations of citizenship under a republican form of government.

1. The legislative branch of the State government—
    a. makes the laws for the State.
    b. tries cases in the courts.
    c. explains the laws.
2. Limits are placed on the right to vote by the—
    a. National Government.
    b. States.
    c. courts.
3. The powers granted to the National Government in the Constitution are called—
    a. delegated powers.
    b. denied powers.
    c. the final authority.
4. The name of our first President was—
    a. John Adams.
    b. George Washington.
    c. Alexander Hamilton.
5. The Constitution of the United States places the final authority in our Nation in the hands of—
    a. the national courts.
    b. the States.
    c. the people.
6. Each State has as many Presidential electors as it has—
    a. Senators.
    b. Representatives.
    c. Senators and Representatives.

Applicant's answers must be provided on Form No. 11 furnished by the Registrar for permanent records.

This card must be returned to the Registrar

[fol. 224]

Form No. 6

DO NOT WRITE ON THIS CARD

Applicant must correctly answer any four of the following six questions so as to evidence an elemental knowledge of the Constitution and Government, an attachment thereto, and a simple understanding of the obligations of citizenship under a republican form of government.

1. In case of impeachment of the President, the officer who would preside at the trial is—
   a. the Vice President.
   b. the Speaker of the House of Representatives.
   c. Chief Justice of the United States.
2. Money is coined by—
   a. the States.
   b. the people.
   c. the National Government.
3. Our Constitution has been changed—
   a. by the President.
   b. by the Congress and the people.
   c. by the Supreme Court.
4. Limits are placed on the right to vote by the—
   a. National Government.
   b. States.
   c. courts.
5. The Constitution of the United States places the final authority in our Nation in the hands of—
   a. the national courts.
   b. the States.
   c. the people.
6. The name of our first President was—
   a. John Adams.
   b. George Washington.
   c. Alexander Hamilton.

Applicant's answers must be provided on Form No. 11 furnished by the Registrar for permanent records.

This card must be returned to the Registrar

[fol. 225]

Form No. 7

DO NOT WRITE ON THIS CARD

Applicant must correctly answer any four of the following six questions so as to evidence an elemental knowledge of the Constitution and Government, an attachment thereto, and a simple understanding of the obligations of citizenship under a republican form of government.

1. The State governments have the authority to—
   - a. admit new States into the Union.
   - b. set up local governments within the State.
   - c. declare war.
2. The Seventeenth Amendment states that Senators shall be elected by—
   - a. the State legislatures.
   - b. the people of the States.
   - c. the Congress.
3. The Constitution of the United States places the final authority in our Nation in the hands of—
   - a. the national courts.
   - b. the States.
   - c. the people.
4. Presidential candidates are nominated—
   - a. by State Legislatures.
   - b. by National Conventions.
   - c. by the people.
5. The written statement of the things for which a political party stands is called the—
   - a. ballot.
   - b. platform.
   - c. candidate.
6. The name of our first President was—
   - a. John Adams.
   - b. George Washington.
   - c. Alexander Hamilton.

Applicant's answers must be provided on Form No. 11 furnished by the Registrar for permanent records.

This card must be returned to the Registrar

[fol. 226]

Form No. 8

DO NOT WRITE ON THIS CARD

Applicant must correctly answer any four of the following six questions so as to evidence an elemental knowledge of the Constitution and Government, an attachment thereto, and a simple understanding of the obligations of citizenship under a republican form of government.

1. The number of Representatives from each State depends upon—
   a. the voters.
   b. the population.
   c. the electors.
2. The Senators and Congressmen from my State are elected by the—
   a. State legislature.
   b. voters.
3. The name of our first President was—
   a. John Adams.
   b. George Washington.
   c. Alexander Hamilton.
4. The Constitution of the United States places the final authority in our Nation in the hands of—
   a. the national courts.
   b. the States.
   c. the people.
5. United States judges obtain their offices through—
   a. election by the people of their districts.
   b. appointment by the President without the approval of the Senate.
   c. appointment by the President with the advice and consent of the Senate.
6. A tax on the money a person receives in payment for his labor, or earnings from his property is—
   a. an income tax.
   b. a poll tax.
   c. a sales tax.

Applicant's answers must be provided on Form No. 11 furnished by the Registrar for permanent records.

This card must be returned to the Registrar

Form No. 9

DO NOT WRITE ON THIS CARD

Applicant must correctly answer any four of the following six questions so as to evidence an elemental knowledge of the Constitution and Government, an attachment thereto, and a simple understanding of the obligations of citizenship under a republican form of government.

1. The name of our first President was—
    a. John Adams.
    b. George Washington.
    c. Alexander Hamilton.
2. The Constitution of the United States places the final authority in our Nation in the hands of—
    a. the national courts.
    b. the States.
    c. the people.
3. All bills of revenue (tax) must begin in—
    a. the Senate.
    b. the Supreme Court.
    c. the House of Representatives.
4. Most States have a lawmaking body made up—
    a. of two houses.
    b. of one house.
    c. of the governor and the department heads.
5. The Members of the House of Representatives are called—
    a. judges.
    b. Congressmen.
    c. Senators.
6. The (U. S.) Supreme Court is made up of—
    a. 9 Justices.
    b. 6 Justices.
    c. 5 Justices.

Applicant's answers must be provided on Form No. 11 furnished by the Registrar for permanent records.

This card must be returned to the Registrar

[fol. 228]

Form No. 10

DO NOT WRITE ON THIS CARD

Applicant must correctly answer any four of the following six questions so as to evidence an elemental knowledge of the Constitution and Government, an attachment thereto, and a simple understanding of the obligations of citizenship under a republican form of government.

1. Limits are placed on the right to vote by the—
   - a. National Government.
   - b. States.
   - c. courts.
2. The name of our first President was—
   - a. John Adams.
   - b. George Washington.
   - c. Alexander Hamilton.
3. The judges of the national courts hold office—
   - a. for five years.
   - b. for life if they obey the laws.
   - c. for twenty years.
4. The tax we pay on our property is—
   - a. a business tax.
   - b. a property tax.
   - c. an inheritance tax.
5. The chief work of the Congress is to—
   - a. make the laws for the Nation.
   - b. explain the laws.
   - c. make treaties.
6. The system of courts in a State is called—
   - a. the executive branch of the government.
   - b. the State judiciary.
   - c. the Senate.

Applicant's answers must be provided on Form No. 11 furnished by the Registrar for permanent records.

This card must be returned to the Registrar

[fol. 229]

Form No. 11

AFFIDAVIT

Question Form
Selected
Circle one

.........................., Louisiana Date ....

1 6 I do solemnly swear that I will faithfully and fully abide by the laws of this State and that I am well disposed to the good order and happiness thereof.

2 7

Sworn to and subscribed before me this

3 8

.... day of .... 196....

4 9

....

5 10 (Deputy Registrar)

....
Applicant's Signature

"Applicant shall demonstrate his ability to read and write from dictation by the Registrar of Voters from the Preamble to the Constitution of the United States of America."

PREAMBLE

We, the people of the United States, in order to form a more perfect union, establish justice, insure domestic tranquility, provide for the common defense, promote the general welfare, and secure the blessings of liberty to ourselves and our posterity, do ordain and establish this Constitution for the United States of America. (Article VIII, 1 (c) (7) La. Constitution)

CITIZENSHIP TEST FOR REGISTRATION

Circle letter indicating your answers to the four numbered questions you have chosen.

1 — a b c 3 — a b c 5 — a b c
2 — a b c 4 — a b c 6 — a b c

(La. Constitution, Article VIII, Sec. 1 (d) and LRS 18:31 (2)

(The above qualification test and a registration application form provided for by Act 63 of 1962, (Form LR-1), were received by me from the .... Parish Registrar of Voters upon my request to register, and I have signed both for acknowledgement and identification with my application to register.)

Date: .... 196....
Ward .... Precinct ....
....
Applicant for Registration
Address ....

(Over)

[fol. 230]

ANSWERS TO CITIZENSHIP TESTS ON OUR CONSTITUTION AND GOVERNMENT

(Letters in parentheses denote proper answers)

1. The Constitution of the United States places the final authority in our Nation in the hands of—
   a. the national courts.
   b. the States.
   (c.) the people.

2. Limits are placed on the right to vote by the—
   a. National Government.
   (b.) States.
   c. courts.

3. The powers granted to the National Government in the Constitution are called—
(a.) delegated powers.
b. denied powers.
c. the final authority.

4. Our towns and cities have delegated authority which they get from the—
(a.) State.
b. Congress.
c. President.

5. The State governments have the authority to—
a. admit new States into the Union.
(b.) set up local governments within the State.
c. declare war.

6. The chief work of the Congress is to—
(a.) make the laws for the Nation.
b. explain the laws.
c. make treaties.

7. The Members of the House of Representatives are called—
a. judges.
(b.) Congressmen.
c. Senators.

8. The Senators and Congressmen from my State are elected by the—
a. State legislature.
(b.) voters.

9. The judges of the national courts hold office—
a. for five years.
(b.) for life if they obey the laws.
c. for twenty years.

[fol. 231]

10. The legislative branch of the State government—
(a.) makes the laws for the State.
b. tries cases in the courts.
c. explains the laws.

11. A citizen who desires to vote on election day must, before that date, go before the election officers and—
    (a.) register.
    b. pay all of his bills.
    c. have his picture taken.

12. The written statement of the things for which a political party stands is called the—
    a. ballot.
    (b.) platform.
    c. candidate.

13. Bad government in a democracy is possible if the people—
    a. make wise votes.
    (b.) forget to vote.
    c. do not stay at home.

14. The Articles of Confederation are—
    a. the Constitution we now have.
    b. a plan for State government.
    (c.) an early plan of government for the original 13 States.

15. The church that we attend is chosen—
    a. by the National Government.
    (b.) by ourselves.
    c. by the Congress.

16. Our Constitution has been changed—
    a. by the President.
    (b.) by the Congress and the people.
    c. by the Supreme Court.

17. The Seventeenth Amendment states that Senators shall be elected by—
    a. the State legislatures.
    (b.) the people of the States.
    c. the Congress.

18. Laws for the District of Columbia are made—
    a. by the State of Maryland.
    (b.) by the Congress.
    c. by the people who live there.

[fol. 232]

19. The President of the Senate gets his office—
    - (a.) by election by the people.
    - b. by election by the Senate.
    - c. by appointment by the President.

20. The mail carrier is paid by the—
    - a. city.
    - b. State.
    - (c.) United States Government.

21. Presidential candidates are nominated—
    - a. by State Legislatures.
    - (b.) by National Conventions.
    - c. by the people.

22. The President is elected—
    - a. by the Congress.
    - b. by the direct vote of the people.
    - (c.) by the people through electors.

23. The President must be at least—
    - a. twenty-five years old.
    - b. thirty years old.
    - (c.) thirty-five years old.

24. The President gets his authority to carry out laws—
    - a. from the Declaration of Independence.
    - (b.) from the Constitution.
    - c. from the Congress.

25. The President is elected—
    - (a.) for four years.
    - b. for six years.
    - c. for life.

26. The general plan of a State government is given—
    - a. in the Constitution of the United States.
    - b. in the laws of the Congress.
    - (c.) in its own State constitution.

27. Most States have a lawmaking body made up—
    - (a.) of two houses.
    - b. of one house.
    - c. of the governor and the department heads.

28. The system of courts in a State is called—
a. the executive branch of the government.
(b.) the State judiciary.
c. the Senate.

[fol. 233]

29. The name of our first President was—
a. John Adams.
(b.) George Washington.
c. Alexander Hamilton.

30. Money is coined by—
a. the States.
b. the people.
(c.) the National Government.

31. The Congress cannot regulate commerce—
a. between States.
b. with other countries.
(c.) within a State.

32. The Congress cannot establish—
(a.) churches.
b. courts.
c. banks.

33. A government in which the people delegate authority to chosen officials is—
a. a totalitarian state.
(b.) a republic.
c. a monarchy.

34. We usually decide public questions in the United States by a vote of the—
a. few.
(b.) majority.
c. male citizens.

35. The (U. S.) Supreme Court is made up of—
(a.) 9 Justices.
b. 6 Justices.
c. 5 Justices.

36. United States judges obtain their offices through—
  a. election by the people of their districts.
  b. appointment by the President without the approval of the Senate.
  (c.) appointment by the President with the advice and consent of the Senate.

37. Each State has as many Presidential electors as it has—
  a. Senators.
  b. Representatives.
  (c.) Senators and Representatives.

[fol. 234]

38. The number of Representatives from each State depends upon—
  a. the voters.
  (b.) the population.
  c. the electors.

39. All bills of revenue (tax) must begin in—
  a. the Senate.
  b. the Supreme Court.
  (c.) the House of Representatives.

40. It is important for every voter—
  a. to vote as others tell him to vote.
  b. to vote for the most popular candidate.
  (c.) to vote for the best qualified candidates.

41. In case of impeachment of the President, the officer who would preside at the trial is—
  a. the Vice President.
  b. the Speaker of the House of Representatives.
  (c.) Chief Justice of the United States.

42. A tax on the money a person receives in payment for his labor, or earnings from his property is—
  (a.) an income tax.
  b. a poll tax.
  c. a sales tax.

43. The tax we pay on our property is—
  a. a business tax.
  (b.) a property tax.
  c. an inheritance tax.

[fol. 235]

PLAINTIFF'S EXHIBIT NO. 20A

No. 7881

UNITED STATES OF AMERICA, Plaintiff,

vs.

ASSN. OF CITIZENS COUNCILS, *et al.*, Defendant.

EXCERPTS OF PROCEEDINGS

[fol. 236] MRS. PAULINE A. CULPEPPER, called as a witness by counsel for the Government, on cross examination, being first duly sworn by the Clerk, testified as follows:

Cross examination.

By Mr. Owen:

Q. State your name?
A. Pauline A. Culpepper.
Q. And your age?
A. Forty-six.
Q. Your occupation?
A. Registrar of Voters, Bienville, Parish.
Q. Mrs. Culpepper, let me direct your attention to the period of about September 25, 1956, to about October 9, 1956. Were any affidavits filed with you challenging the registration status of registered voters in Bienville Parish during that period?
A. Yes.
[fol. 237] Q. Do you recall what day or dates these affidavits were filed with you?
A. 26th through the 28th.

The Court: Of September?
The Witness: Yes, sir.

By Mr. Owen:

Q. 1956?

A. Yes, sir.

Q. At this time, were there any individuals who were registered voters in the Parish who came to your office to review your registration cards?

A. During those dates?

Q. From the 25th through October 9th?

A. Yes.

Q. You recall when they came to your office?

A. You mean what time?

Q. What day?

A. What day of the month?

Q. Yes.

A. It was either the 26th or the 28th.

Q. What time of day was it?

A. After office hours.

Q. How many days during that period were these individuals there? [fol. 238]

A. I believe three nights.

Q. You ordinarily keep your office open after office hours?

A. No.

Q. Why, on this occasion, did you keep your office open after office hours?

A. I was complying with the State law. I don't have time for anyone to come in to inspect the records during office hours. I can come in after office hours.

Q. Did anyone contact you and ask you to come in and stay after office hours?

A. Yes, sir.

Q. Did anyone contact you?

A. Yes, sir.

Q. Who contacted you?

A. Jerry Butler.

Q. Do you know Mr. Butler pretty well?

A. Yes, sir.

Q. Do you know whether he is a member of the Arcadia Citizens Council?

A. No.

Q. These three evenings during which these people were in your office—first of all, who was there?

A. I don't recall who all was there.

[fol. 239] Do you recall anyone who was there?

A. Yes.

Q. Who do you recall that was there?

A. Mr. Butler, Mr. Reeves, Mr. Caskey, Mr. Taylor, Mr. Williams, Mr. Phillips, Mr. Walker, Mr. Woodward. I believe that's all I can remember.

Q. State whether or not Mr. Kettler, Leon Franklin Kettler was there?

A. Yes.

Q. Mr. Charles E. Merritt?

A. Yes.

Q. Mr. Archer Franklin Merritt?

A. Yes, sir.

Q. I believe you stated Mr. Walker was there?

A. Yes.

Q. Mr. Paul Britton Phillips?

A. Yes.

Q. Mr. R. E. Woodward?

A. Yes, sir.

Q. Joe Bryan Williams?

A. Yes, sir.

Q. Hugh Pearson?

A. Yes, sir.

Q. I believe you stated Mr. Reeves was there?

A. Yes, sir.

[fol. 240] Q. Mr. Robert Lamar Taylor?

A. Yes, sir.

Q. Mr. Forrest Riley McCallister?

A. Yes, sir.

Q. Mr. Walter Leonard Dance?

A. Yes, sir.

Q. Mr. John Alexander Bridges?

A. Yes, sir.

Q. I believe you testified Mr. Butler was there?

A. Yes, sir.

Q. Do you know each of these individuals?

A. Yes, sir.

Q. Have you known most of them for quite some time?

A. Yes.

Q. Would you say you are, so to speak, friends of each of these individuals as opposed to being mere acquaintances?

A. Well, not all of them.

Q. Some of them?

A. Yes, sir.

Q. Mrs. Culpepper, what did these people do in your office?

A. They inspected the registration rolls.

Q. Were you there all the time?

A. Yes, sir.

Q. You say they inspected the registration rolls. What [fol. 241] do you mean?

A. The application cards.

Q. They inspected the application cards?

A. Yes, sir.

Q. In your office, how do you have these application cards?

A. I have them filed by Ward and Precinct, alphabetically.

Q. How are they filed? Are they in a filing cabinet?

A. Yes, sir.

Q. Are they all together?

A. They are in different drawers.

Q. These people who were inspecting the records, you stated you were there when they did it?

A. Yes, sir.

Q. Will you describe what they did?

A. I pulled the drawers out myself. They were in a little filing cabinet. I took them out and set them on a counter and they looked them over.

Q. You looked the cards over?

A. No, they did.

Q. Mrs. Culpepper, can you recall which of the people who were there that were looking at the cards, or were all of them looking at the cards?

A. Yes, I believe so.

[fol. 242] Q. All of them were looking at the cards?

A. As far as I know.

Q. Do you know what they did?

Mr. Dalton: May it please the Court, maybe he should specify the night. There were three nights, and maybe it would help Mrs. Culpepper, Your Honor.

The Court: I believe I would be a little more specific.

Another thing I might interrupt to ask at this time: were all cards from a given precinct kept together as a group, regardless of race?

The Witness: No.

The Court: They were separated according to negro and white?

The Witness: No, sir, they were all filed together.

The Court: That is what I asked you. They were kept together by precinct and ward?

The Witness: Yes, sir, alphabetically.

By Mr. Owen:

Q. On the first night these individuals came into your office, you testified they examined the registration cards.

What did they do? Did they simply examine them, or [fol. 243] what did they do?

A. They just sat down and went through the file. They looked the cards over and pulled them out.

Q. Do you know whether or not they looked at all the cards?

A. I don't know.

Q. They pulled them out?

A. I don't know whether they pulled them out. They looked through the cards. I pulled the drawer out and gave it to them.

Q. Did they pull some of the cards out of your files?

A. I am sure they did.

Q. What did they do with them?

A. They made the affidavits from the cards.

Q. And then what did they do?

A. They made the affidavits that challenged their registration.

Q. Did they give you the affidavits?

A. Yes, sir.

Q. With the cards?

A. Yes, sir.

Q. Was this same procedure followed on the second night?

A. Yes, sir.

Q. Was this same procedure followed on the third night?

[fol. 244] A. Yes, sir.

Q. When they gave the affidavit, was the card attached to the affidavit when they gave it to you?

A. Yes, sir.

Q. When they gave you the affidavit, was it signed?

A. No.

Q. It was not signed?

A. No.

Q. What did you do then?

A. Well, they had to sign the affidavit in my presence.

Q. Did you place them under oath?

A. I read the affidavit to them.

Q. It is correct that the people who signed the affidavits came to you, you knew them, and they signed them in front of you?

A. They were my friends.

Q. And on these affidavits, did you sign them as the attesting witness?

A. I signed it as the Registrar.

Q. After you accepted these affidavits together with the cards, what did you do with the cards and affidavits?

A. I made up the citations to erase and mailed them within forty-eight hours to the challenged registrant.

Q. Where did you get the information to place on the citation to erase?

[fol. 245] A. I have a copy of the State Registration Laws.

Q. Information as to the blanks which are on the citations to erase, where did you get the information to fill in?

A. Off the cards and off the challenge.

Q. Do you recall, Mrs. Culpepper, when you mailed these citations?

A. I mailed them within forty-eight hours.

Q. Forty-eight hours from each of the three days?

A. Yes, sir. I did not mail them all at the same time, I don't believe.

Q. In other words, on the third day, you are certain that within forty-eight hours after the third day the citations were all mailed, is that right?

A. Yes, sir.

Q. When you received the cards with the affidavits of challenge—together with the affidavits of challenge to prepare your notice to erase, did you see any check marks on the cards?

A. Yes.

Q. Were they red check marks?

A. Yes.

Q. Had you put these red check marks on the cards?

A. No.

Q. Who put the red check marks on the cards?

[fol. 246] A. The one that did the challenging.

Q. What did the red check marks signify?

A. Errors.

Q. Errors in the registration card?

A. Yes, sir.

Q. It is correct that the citation to erase required the voter to return to your office within ten days?

A. That is correct.

Q. What was he supposed to do?

A. To appear with three witnesses, three bonafide registered voters of the Parish, to sign an affidavit that they were legally registered. That would put them back on the rolls.

Q. Would you state, approximately, how many of these affidavits together with the cards that you received from these individuals?

A. Something around 600.

Q. Of this 600, how many were negroes?

A. I don't recall.

Q. Within this ten day period, were there any voters who had been challenged who returned to your office to check on the challenges?

A. Yes, sir.

Q. Were there any negro voters who returned to your office?

[fol. 247] A. Yes, sir.

Q. How many during this period? How many negro voters returned to your office?

A. I don't recall.

Q. Was the number more than ten?

A. I just don't recall.

Q. Was the number—

A. I didn't keep any record of it.

Q. Have you ever talked to the F.B.I.?

A. Yes.

Q. About this matter?

A. Yes.

Q. You recall having stated to an agent of the F.B.I. that approximately a hundred persons returned to check on their affidavits of challenge?

A. I don't recall making that statement.

Q. On your registration card, Mrs. Culpepper, is there any signifying mark on the card which would identify the cards of negroes?

A. Yes.

Q. What is that mark?

A. I placed a red "C" up in the left-hand corner of the card.

Q. Why was this mark to identify the negroes placed on the card?

[fol. 248] A. I placed it there for my own convenience.

Q. Is there any particular reason why you need to know?

A. Well, in going through the roll and making up lists and making my monthly reports, and things like that, I could keep up with them better.

Q. In other words, you state that in going through the rolls—you mean the cards?

A. The cards.

Q. You periodically have to go through these cards?

A. Well, at that time, we didn't have a permanent registration and I was making up lists for the different elections and it was just convenient, is the reason, I placed it there. Just like in bond elections, when I put the amount of the assessment on the cards.

Q. Let me direct your attention to the Presidential election in November, 1956.

When would you make up the list for that election?

A. I don't recall.

Q. Ordinarily, when you were under a system of periodic registration, how long before the election was the list made up?

A. I would make it sometimes during the thirty days when the books were closed.

Q. The presidential election of 1956—November, 1956, —state whether or not it was necessary for you to make up [fol. 249] a list during the thirty day period prior to that election?

A. I am sure it was.

Q. Do you recall whether this list was made up to include the persons who were erased from the registration rolls during that period?

A. I am sure it was not. It was not made up with their names on it.

Q. In your master file—your file of registration cards, at this time when you went through the cards in the thirty day period—the cards of persons who had been challenged had been pulled out of the file?

A. I just left them out until the ten day period was up.

Q. And you did not put them back in?

A. Until the ten day period was up. If any of them came in, if they came in with their three witnesses, I would put them back on the roll.

Q. Was anybody put back on the rolls?

A. No.

Q. Returning for a moment to this red "C", which you say is in the upper left-hand corner of the card—

Mr. Dalton: May it please the Court, all this previous testimony about the making up of the rolls, as I understand it, the date of the challenges—I am trying to get it straight- [fol. 250] ened out in my mind?

The Court: The date of the challenging is the 26th through the 28th of September.

It would be approximately from October 7th to November 6th, the thirty days when the books were closed when she made it up.

The Witness: If the election was November 6.

The Court: Yes.

The Witness: I would make it between October 7 and November 7.

By Mr. Owen:

Q. Returning for a moment to this red "C", which is on the card, was that identification mark on the card when these people came to your office and examined the registration rolls?

A. Yes, sir.

Q. On each of the negro cards?

A. Yes, sir.

Q. You recall, Mrs. Culpepper, whether or not there was an election in October, 1956?

A. I believe we had a representative election.

The Court: Was that a special election?

The Witness: Yes, sir.

[fol. 251] By Mr. Owen:

Q. You recall whether or not that election was on October 16, 1956?

A. It was either the 16th or 26th of October.

Q. And in the thirty day period prior to this election, state whether or not you were required to make up the registration lists?

A. Yes, sir.

Q. From your master file?

A. Yes, sir.

The Court: Also, during that thirty day period, your rolls were closed, were they not?

The Witness: Yes, sir.

The Court: Which is required by the State law?

The Witness: Yes, sir.

The Court: Actually, your rolls were closed from October 6th or 26th until after the ~~presidential election~~; is that right?

The Witness: I don't recall, Judge. The reason that I asked them to come to the office at night was because I was getting ready for an election, or I was registering people for an election. It was a three-day period, as well as I can recall, I was registering people.

[fol. 252] The Court: The State law requires you close your rolls thirty days prior to any election?

The Witness: Yes, sir.

The Court: So, if there was an election in the middle or latter part of October, you would have had to close your rolls thirty days prior to that?

The Witness: Yes, sir.

The Court: And if the presidential election was on the 6th or 7th, thirty days prior to that, there would have been an overlap and, actually, your rolls would have been closed for approximately six weeks rather than the ordinary thirty days?

Mr. Cashio: If it please the Court, under our interpretation, the closure is for a particular election. While the books were closed for a special election, they would have been open for the general election.

The Court: I understand what you mean, but they would not have been entitled to vote if they had not registered in that special election.

Mr. Cashio: That's right, sir.

Mr. Dalton: On the other hand, while the books were closed for the special election, they were eligible to vote in the presidential election.

[fol. 253] By Mr. Owen:

Q. You stated you had to make up rolls and reports.

Would you elaborate on what type of reports you have to make?

A. Well, I make a report of the number of registered voters, the number of white registered voters, the number of colored registered voters, the number of registered Democrats, the number of registered white Democrats—on the report it is "Democrat". The form is furnished by the State Department.

Q. How often do you make them?

A. Once a month.

The Court: Do you have any Republicans in Bienville Parish?

The Witness: Yes, sir, we have three in Bienville Parish.

The Court: What color are they?

The Witness: They are white.

By Mr. Owen:

Q. In making up these reports, your primary reference is to your master file; is that correct?

A. Yes.

* * * * * * *

[fol. 254] Mrs. Pauline A. Culpepper, recalled as a witness by counsel for the Government, on cross examination, having previously been duly sworn, testified further as follows:

Cross examination.

By Mr. Owen:

Q. Mrs. Culpepper, yesterday you testified there was a red "C" in the upper left-hand corner of the registration cards of negro voters.

Will you state when this identification mark was put on the card?

A. When the registrant registered.

Q. When the applicant registered?

A. That's right.

Q. You also testified during the period from about September 25th to 28th, Mr. Butler saw you and advised you of the proposed canvassing of your records.

You recall when Mr. Butler saw you?

A. I think it was on the morning of the 26th.

Q. What did he tell you?

[fol. 255] A. He told me some of the Citizens of the Parish wanted to come in and inspect the registration rolls.

Q. Mrs. Culpepper, with respect to the people who returned to check on the challenges, there were some people who returned; is that correct?

A. That is correct.

Q. You recall how many?

A. I have no idea. I didn't keep any records.

The Court: I am not clear as to exactly what you mean "by returning".

You mean on the second and third nights, or people who received the citations?

Mr. Owen: People who came in to answer the challenges.

By Mr. Owen:

Q. Isn't it a fact, Mrs. Culpepper, that some of the people who returned, or the people who did return to answer the challenge, you advised them they would need three duly registered in the Parish to sign, or witness, or swear that they were legally registered?

A. That's right.

Q. And you told them also that these persons who did witness for them could not be persons who had been challenged?

[fol. 256] A. That is correct.

The Court: The Court was advised at the pre-trial conference that only three negroes came back to answer the challenges. How are you going to prove that if Mrs. Culpepper doesn't know?

Mr. Dalton: That was an error on my part, Your Honor. Mrs. Culpepper distinctly remembers that occasion when three returned. She testified in her deposition and on the stand she doesn't recall exactly how many returned, but there was a dozen or more. She doesn't remember telling an F.B.I. agent there were a hundred or more.

I am sorry I gave the Court the impression three is the only instance she vividly remembers.

The Court: All right.

By Mr. Owen:

Q. Let me get this clear, Mrs. Culpepper; when the people returned to answer the challenge, did you tell them all that they needed three duly qualified voters to sign a counter-affidavit?

A. Yes, sir, I did, and most of them their challenge with the citation to erase, and I read the citation to erase to each one of them, and they thoroughly understood they were to [fol. 257] bring in three bonafide registered voters.

Q. Did you also tell all of them that they could not bring in persons who had been challenged?

A. I don't recall whether I did or not.

Mr. Lassiter: May it please the Court, I object on behalf of Mrs. Culpepper to this line of questioning for the reason, in effect, this is an attack upon the Constitutionality of a State statute and it is not in the pleadings of the Government.

The Court: What it is, I think, more than an attack upon the Constitutionality of the State statute, is one interpretation of it as against another.

I think if you read the statute, on its face it says that the three persons who must be brought in with the challenged voter must be qualified registered voters, and in one sense Mrs. Culpepper could be correct in what she interpreted that law as meaning. In another sense, Mr. Owen may be correct in his interpretation; that until the ten days have finally passed, their names were not to be erased from the rolls.

Mr. Lassiter: May it please the Court, I agree with what Your Honor says, but I am still objecting to this line of questioning because he has not asked the witness her interpretation of this statute. Therefore, he can only be attack- [fol. 258] ing the constitutionality of the statute.

The Court: Are you attacking the constitutionality of the statute?

If he says he is not, that ends it.

Mr. Owen: I have asked the witness what she told the people, and the law of Louisiana is the best evidence. Obviously, what she tells the people is her understanding of the law.

The Court: I will overrule the objection.

Proceed, Mr. Owen.

By Mr. Owen:

Q. Did you or did you not tell Agents of the Federal Bureau of Investigation that Mrs. Artomease Rollins appeared in your office with three other negro voters as witnesses to re-register but you did not allow them to re-register since they too had received affidavits of challenge?

A. I don't recall them coming in to re-register.
Q. To meet the citation?

The Court: To answer the challenge.
The Witness: No, not Rollins, No.

[fol. 259] By Mr. Owen:

Q. You did not?
A. No.
Q. Did you tell an agent of the Federal Bureau of Investigation that you subsequently received an opinion from the State Attorney General of Louisiana to the effect that individuals who had been challenged could actually vote within any time after ten days after receiving their challenge and could, therefore, be considered duly registered voters until ten days passed, at which time they would be taken off the rolls?

Mr. Lassiter: May it please the Court, we object to this line of questioning.
The Court: The opinion, itself, would be the best evidence.
Mr. Lassiter: If Your Honor please, he is asking impeachment questions, rather than asking the direct question whether or not she did receive such opinion.
The Court: I am ruling that the best evidence would be the Attorney General's opinion, itself.
Mr. Owen: I have the Attorney General's opinion. I want to ask Mrs. Culpepper if she told the F.B.I. this.
The Witness: No, I do not recall.
[fol. 260] Mr. Lassiter: May it please the Court, I want to put this objection in the record for the reason that is purely an impeachment question based on what we don't know because that agent has not so testified up to this point.
The Court: Insofar as the question of good faith on the part of Mrs. Culpepper is concerned, if she received this opinion after this thing happened, it certainly would not demonstrate any bad faith on her part. If she reasonably believed at the time she told the people they could not

answer challenges in that manner, then her good faith would not be impugnable.

By Mr. Owen:

Q. What was your answer to the previous question?

A. I don't recall that, but I could check back through my files if I had that opinion.

Q. Did you tell the agents of the F.B.I. that in view of this opinion which you received, you were in error in advising these people that the persons who were challenged could not witness for other people?

Mr. Lassiter: Same objection.

The Court: Same ruling.

The Witness: State your question again?

[fol. 261] (Whereupon the last question was read by the Reporter.)

The Witness: I do not recall.

The Court: Can you give us any idea of how many people came in to answer the challenges? I don't mean definitely 25 or 50, or anything of that sort, but approximately, how many came in?

The Witness: Your Honor, that has been four years.

The Court: I realize that.

The Witness: I didn't keep any record.

The Court: I know you didn't, but don't you have any idea?

The Witness: I don't have any idea whatsoever.

The Court: There were about 605 people challenged, colored and white. You don't have any idea what number came in?

The Witness: He says I made a statement to the F.B.I. there was something around a hundred. I am sure that wasn't that many people that came to my office.

The Court: You don't remember what percentage of whites and what percentage of colored came in?

The Witness: No, sir, I don't.

The Court: I believe you said there would be no record of how many came in?

[fol. 262] The Witness: No, sir, I didn't keep any records. I didn't know I was required to keep any record.

Mr. Owen: I mark this for the purpose of identification "Government's Exhibit 11". It purports to be the letter to Mrs. Sims attaching the opinion of the Attorney General about which we have talked. I obtained this from her and I reached a stipulation with these gentlemen that it could be admitted.

The opinion speaks for itself, it is a copy of the opinion that was attached to a letter sent to the Registrar of Grant Parish.

The Court: Any objection?

Mr. Dalton: We have no objection. We would like to point out this is as of October 6, 1956, and it is outside the period in question here.

(Whereupon the above described document was marked "G-11" and filed in evidence with the Clerk.)

By Mr. Owen:

Q. Did you contact any person who came back to your office to check on the challenge and advise them that you had made an error with respect to telling them that they needed three persons who had not been challenged to sign the counter-affidavits?

A. No.

[fol. 263] The Court: Would you have been permitted by State law?

Mr. Owen: Your Honor, 605 people were taken off the rolls. If this group of 605 people were erroneously told that they could not use persons who had been challenged as witnesses, Your Honor, the records will show, which are in evidence, most of these people were negroes and most of the negroes were challenged and they simply, obviously, could not get any other negroes to vouch for them.

The Court: Could she, after the ten day period, correct any mistakes she might have made in advising them of their rights under the State law?

Mr. Owen: As I say, again, if there is an error, if there is a practice, or the sinister motive would not control what she would be required to do under State law.

The fact is, these people were thrown off the rolls. If the result was discriminatory, Federal law is supreme and she would have to advise them she made a mistake and come back in, under Federal law.

The Court: We can cover that point later. Let us go on.

[fol. 264] By Mr. Owen:

Q. Mrs. Culpepper, did you bring your monthly reports with you?

A. Yes.

Q. Would you refer to your monthly reports.

First of all, what do your monthly reports reflect?

A. What do you want to know.

Q. What information is contained on the report?

A. The total number of registered Democrats, the total number of white Democrats, the total number of colored Democrats, the total number of registered Republicans, the total number of white Republicans, the total number of colored Republicans, the total number of registered other party, colored and white, and the total below, which would include all parties. The total of registered voters, the number of voters, white, the number of colored voters, number of white illiterate, the number of colored illiterate.

Q. Are your reports dated?

A. Yes, sir.

Q. Can you read the figures of the total number of persons registered as of September 26, 1956?

A. I can give you August 31, 1956.

Q. That is your latest report; is that correct? That is your latest report of that time?

A. Yes.

[fol. 265] Q. Would you read the figures of the total number of persons registered to vote in your Parish?

A. Five thousand eight hundred seventy-nine.

Q. Five thousand eight hundred seventy-nine white?

A. Five thousand two hundred eighty-four.

Q. The total number of colored voters?

A. Five hundred ninety-five.

Q. Will you take your next monthly report and identify the date on it?

A. September 30; this is September through October 16. I made this report October 16.

Q. 1956?

A. Yes, sir, October 16, 1956.

Q. Will you read the total number of registered voters?

A. The total number of registered voters is 5,317.

Q. The total number of white voters?

Mr. Dalton: If Your Honor please, may we inquire at this time the purpose of this line of questioning?

The Court: I think I know what it is, and I think you do, too.

Mr. Dalton: I mean, we have stipulated for the period under consideration for which discrimination is alleged. We have several stipulations as to the number of white and colored voters.

[fol. 266] The Court: He is giving like the damage suit lawyers do, a before and after picture.

By Mr. Owen:

Q. The total number of white voters?

A. Five thousand two hundred eighty-two.

Q. The total number of colored voters?

A. Thirty-five.

Q. Will you read the date of that report?

A. October 12, 1960.

Q. Give the totals for the voters?

A. Total number of registered voters, 5,210. Number of white voters, 5,184. Number of colored voters, 26.

Mr. Owen: In view of her testimony, I don't think it will be necessary to have her introduce her records.

The Court: That's right. You don't need to run up any more expense for photocopying.

What I want to know is was the registration card for each challenged voter handed to you along with the citation to erase?

Mr. Owen: She so testified.

The Court: Could you not have looked on each of those cards and seen the red "C" in the upper left-hand corner [fol. 267] on each card that was challenged?

Mr. Owen: Your Honor, Mrs. Culpepper said she placed it on there herself when they registered.

The Court: I know. At the time she issued the citations to erase pursuant to the challenges, could she not see the red "C" in the upper left-hand corner?

The Witness: I made the statement I did see.

The Court: Did you realize, Mrs. Culpepper, that about 95% of all those being challenged were colored.

The Witness: Judge, I don't have any choice.

The Court: I realize that, but did you realize that?

The Witness: Yes, I knew they were colored.

By Mr. Owen:

Q. Mrs. Culpepper, I hand you "G-10", a group of cards from that exhibit. Would you identify those cards—what group of cards is that?

Mr. Lassiter: At this point, if Your Honor please, if the purpose of questioning Mrs. Culpepper is for the purpose of showing discrimination as a whole, we object to the questioning on individual cards. First, we object to it for the reason that it is part of the whole, and the whole must show the entire picture. Second, the introduced by [fol. 268] the Government in this case, to this point, has proven conclusively by witnesses employed by the Government and for whom the Government has vouched, that there was no discrimination nor intention of those who filed these challenges.

Therefore, in order for Mrs. Culpepper to have knowledge or to be charged with the knowledge of discrimination, the Government must first prove discrimination.

The Court: Mr. Lassiter, it is true that the F.B.I. agents who testified yesterday quoted each of the individual defendants who have been interviewed by them to the effect that they intended no racial discrimination. What they say in that respect is not necessarily determinable. It is what they did, not what they say.

We are faced here with an allegation, whether they prove it or not remains to be seen, that 95% of the people who were challenged were negroes. If that is so, then under the jurisprudence, that would be very relevant to a decision by the Court.

Mr. Lassiter: I agree with that, Your Honor, but he is not staying with that. He wants to go into it in individual cards.

The Court: What is the purpose of this query, right now, Mr. Owen?

[fol. 269] Mr. Owen: Your Honor, I would like to show the Court through the witness the white persons who were challenged. The evidence will show 30% of them were non-residents. The evidence will also show an additional 5 or 6 are presently back on the rolls. So that, in effect, out of the total of 35 which were in this box—

The Court: That is of those who were challenged?

Mr. Owen: That is of those who were challenged, approximately 15 or 16 of them are left who were in the same position that the colored people were in who were challenged.

The Court: I will permit the evidence. That, I suppose, is going to go into the challenging as against the negroes?

Mr. Owen: I will go into the challenging against the negroes.

The Court: Are you planning to ask her, from her own familiarity with the records, approximately what percentage of whites were disqualified because of omissions, mistakes or mis-calculations on their registration cards at the time this took place?

Mr. Owen: Yes, sir. I would like to ask her that.

The Court: You are relying, of course, upon the case of [fol. 270] McIlveen as affirmed by the Supreme Court in re Thomas?

Mr. Owen: Yes, sir.

The Court: I presume you are going to try to make your proof as close to that as you possibly can?

Mr. Owen: Yes, sir. We have registration cards which we have photographed and which we have analyzed in the light of typical mistakes on the negro cards.

The cards speak for themselves in terms of evidence and we will plan—the cards are, in fact, in evidence now and as an aid to the Court we will give the figures which we arrived at.

The Court: Have you made any analysis of the white registration cards to see how many of them and what percentage had the same type of mistakes as the negro cards had? I think that would be very relevant.

Mr. Owen: Your Honor, we took pictures of all Ward 4, Precinct 1. We took pictures of all of Ward 6, which is the smallest ward. We also selected cards from each other ward and precinct in the parish. The selection quite candidly was done in a hurry and we will try to select cards to show these precincts were not clear of errors.

We tried to select some with errors, even though some we selected didn't have errors in view of the rapidity in [fol. 271] which we selected them.

Inasmuch as these cards are presently in evidence, I would like to hand this to the Court for the convenience of the Court.

I will give a copy of this to opposing counsel.

The Court: What is this?

Mr. Owen: Those are pictures of the general type of errors on negro cards on which the negroes were challenged.

Mr. Lassiter: Are you offering this in evidence?

Mr. Owen: No.

The Court: This is in the nature of a brief, is it not?

Mr. Owen: That's right, Your Honor.

Mr. Lassiter: That is an unusual way to handle a brief, if Your Honor please, by attaching what looks like evidence to me.

The Court: All these cards are in evidence.

Mr. Lassiter: That is only a portion of them, not all of them.

The Court: I understand that. You can point out in your brief contradictory evidence.

Mr. Lassiter: Eventually we will, Your Honor, but this [fol. 272] is a trial on the merits.

The Court: This is not a trial by jury. My mind will remain open until the briefs will be studied. I don't think I am being prejudiced by any of this.

Mr. Owen: Your Honor, in this connection, I would like to point out the first group—the first card "negro" is checked. The second card "colored" is checked. The third "brown" is checked. The fourth card "dark" is checked.

Mr. Lassiter: Your Honor, counsel is now testifying. This is going into the record.

The Court: I can see it for myself.

In this case, they checked the word "black", and frankly, that is what they have been wanting them to say all along.

Where they said "negro" or "dark", they said that was wrong.

Mr. Owen: Every possible answer was checked, Your Honor.

By Mr. Owen:

Q. Mrs. Culpepper, I hand you a group of cards which are "G-10"—part of that group—which purport to be cards of white applicants who were challenged; is that correct?

[fol. 273] Mr. Lassiter: May it please the Court, at this time, in addition to the objections we have already made, we wish to enter the objection in regard to questioning the witness on individual cards as to the eligibility or qualifications as a voter; that not only is this inappropriate examination, but also directly in the thick of the decision of the Fifth Circuit Court of Appeal as to the rights of individual voters in the case of Reddix v. Lucky and, in fact, it is pointed out in the opinion of the Attorney General which has been filed by the Government, that these people as individuals have a constitutional right to bring a suit in the State District Court having jurisdiction to correct any violations of their rights as voters.

Therefore, these questions as to the individual voters, or any selected group, for the reason that these groups, as counsel refers to them, are individuals selected by him and made into a group, and therefore—

The Court: Under the holding of the McIlveen case, as affirmed by the Supreme Court, it was expressly held, Mr. Owen, that the qualifications of individual voters was irrelevant.

Mr. Owen: I agree with that. In terms of a purge situation that is true.

[fol. 274] The Court: What this exhibit here is—

Mr. Owen: I am attempting to show the type of mistakes.

The Court: That's right, which, of course, affects the qualifications of the voters.

One of the types of qualifications of a voter is the way he fills out his card. In fact, that is the most important test, probably.

Mr. Owen: Your Honor, the purpose of showing mistakes on the cards is to determine whether there was discrimination.

The Court: Insofar as the same type of mistakes were made on white cards, which were not challenged, I think this was would be relevant.

Mr. Owen: That is true, and that is what our brief suggests. I simply wanted to show Your Honor the type of mistake we used in making our summary in our brief, which we gave you.

The Court: Insofar as Reddix v. Lucky is concerned, I believe the 1960 Civil Rights Statute, in authorizing the Attorney General to bring this type of suit, in effect, overruled that.

Mr. Lassiter: Your Honor, we can't tell until the Fifth Circuit passes on ~~it again~~.

Mr. Owen: Your Honor, may I continue questioning the [fol. 275] witness on this matter?

The Court: Yes, sir.

Mr. Lassiter: I ask the Court to rule on the objection.

The Court: Let the objection be overruled. The objection and ruling will be made general.

By Mr. Owen:

Q. Have you looked at these?

A. Yes, sir.

Q. Would you read the name of the applicant and ward and precinct, for identification?

A. Mrs. Bertha Martin, Ward 1, Precinct 1, Arcadia, Louisiana.

Q. Was her name erased from the registration rolls?

A. Yes.

Q. For what reason?

A. Non-resident of Bienville Parish.

Q. Would you read the next one?

A. Artis Martin, Ward 1, Precinct 1.

Q. Was his name erased from the registration rolls?

A. Non-resident, yes.

Q. Is this Martin a white person?

A. Yes.

Q. Was the previous card, Mrs. Bertha Martin, a white [fol. 276] person?

A. Yes.

Q. What is the name and the color of the applicant on this card?

A. Mr. Jonah S. Cathey, Ward 1, Precinct 1.

Q. Was this person white or colored?

A. White.

Q. Was he erased from the registration rolls?

A. Yes.

Q. For what reason?

A. Non-resident.

Q. Read the name of that individual?

A. Clarence M. White.

Q. Ward and Precinct?

A. Ward 1, Precinct 5.

Q. Is he white or colored?

A. White.

Q. Was his name erased from the registration rolls?

A. Yes.

Q. For what reason?

A. Non-resident of the Parish.

Q. Read the name of the individual on that?

A. Wallace B. Ginn.

Q. Ward and precinct?

A. Ward 1, Precinct 5.

[fol. 277] Q. Is that individual colored or white?

A. White.

Q. Was he erased from the registration rolls?

A. Yes.

Q. For what reason?

A. Non-resident of Bienville Parish.

Q. Read the name of the individual whose card that is?

A. L. Danny Brown, Ward 1, Precinct 5.

Q. Is the individual white or colored?

A. White.

Q. Was the individual erased from the registration rolls of Bienville Parish?

A. Yes.

Q. For what reason?

A. Non-resident of the Parish of Bienville.

Q. Read the name of the next one?

A. George F. Phillips.

Q. The ward and precinct?

A. Ward 2, Precinct 2.

Q. Is the individual white?

A. Yes.

Q. Was he erased from the registration rolls?

A. Yes.

Q. For what reason?

A. Incorrect application.

[fol. 278] Q. Would you tell me what the letter on the back of this application is?

A. It has "Minnie Phillips" on it.

Q. Would you state what that letter is?

A. It was returned to my office.

Q. What does it contain?

A. The challenge. I assume that is what it is. It has not been opened, but it like letters I sent out at that time.

Q. Ordinarily, in the course of your business, when you send letters containing your challenges and they are returned, what does that indicate to you?

A. It would indicate that they had moved.

Q. Ordinarily, from the Parish?

A. Or sent it to the wrong address, one. Not necessarily moved from the Parish.

Q. Read the name of the next one?

A. Minnie Phillips.

Q. Ward and Precinct?

A. Ward 2, Precinct 2.

Q. What color?

A. White.

Q. Was she erased?

A. Incorrect application, yes.

Q. Would you identify the letter which is attached to [fol. 279] that card?

A. It was returned to my office.

Q. What does the letter contain?

A. The affidavit of challenge and the printed citation.

Q. The name of the next individual?

A. Will D. Campbell.

Q. Ward and Precinct?

A. Ward 2, Precinct 3.

Q. Is the individual white or colored?

A. White.

Q. Was he removed from the registration rolls?

A. Yes.

Q. For what reason?

A. Non-resident.

Q. What is that individual's name?

A. Mrs. Betty A. Huckabee.

Q. Her ward and precinct?

A. Ward 3, Precinct 1.

Q. Is the individual white or colored?

A. White.

Q. Was the individual removed from the registration rolls at one time?

A. Yes.

Q. For what reason?

A. Non-resident.

[fol. 280] Q. Would you identify the individual whose card that is?

A. Calbin Huckabee.

Q. The ward and precinct?

A. Ward 3, Precinct 1.

Q. The individual white or colored?

A. White.

Q. Was the individual removed from the registration rolls at one time?

A. Yes.

Q. What was the reason for removal?

A. Non-resident.

Q. Would you tell me the name of the individual whose card that is?

A. Elma W. Kirkham.

Q. What ward and precinct?

A. Ward 2, Precinct 3.

Q. Is the individual colored or white?

A. White.

Q. Can you tell me if you sent a citation of notice to erase this individual?

A. I am sure that I did. I don't recall right now with all this. I think I did.

The Court: While you are consulting, we might as well [fol. 281] take a fifteen minute recess.

(Short recess.)

The Court: While they are looking at these papers, Mrs. Culpepper, can you give us a rough estimate, throughout the Parish, of the number of white registration cards that contain the same types of miscalculations, errors, or misspellings as were contained in these negro cards that were challenged?

The Witness: Your Honor, I have no idea what the percentage would be.

The Court: Would you say it was a large percentage or small percentage or moderate percentage, or what?

The Witness: Well, I would be afraid to say until I checked my records.

The Court: Go ahead.

Mr. Owen: This is the group of all the rest of the white voters who were challenged at this time.

The Court: Put a slip on the outside of it and mark it "Challenged White Voters."

Mr. Lassiter: We would like to make the same objection.

The Court: Same ruling.

[fol. 282] By Mr. Owen:

Q. Mrs. Culpepper, let me direct your attention to the periodic registration period preceding the adoption of the permanent registration system.

Were there some cards of white voters which you accepted which contained mis-spellings?

A. Yes.

Q. Were there some cards of white voters which you accepted that contained incorrect answers?

A. Yes.

Q. Were there some cards of white viters which you accepted during this period which contained omitted answers?

A. Yes.

Q. Were there some cards of white voters which you accepted during this period which contained mis-spellings?

A. Yes.

Q. Were there some cards of white voters which you accepted during this period which contained incomplete answers?

A. What do you mean "incomplete"?

Q. I have reference to, for example, in their residence number they may put their box and not their city and state?

A. Yes.

Q. The blank on the card which requires residence and [fol. 283] any other blank which requires more than one word for the answer?

A. Yes.

Q. During this same period, did you ever accept any cards of white voters which contained abbreviations for the answers to the statements of color, sex, or party affiliation?

A. Yes.

Q. Mrs. Culpepper, I am handing you a photograph of a registration card of a person who was challenged and erased from the registration rolls.

Was that card filled out in the handwriting of the applicant?

A. No.

Q. Whose handwriting was it?

A. Myself.

Q. Did you accept any cards from white voters during the period to which we have previously referred which were not filled out by the applicant?

A. Yes.

Q. The question I have asked with respect to mistakes which you have accepted, will you state whether or not there are cards in your master files, which is, "G-9", which contain these errors?

A. Yes.

[fol. 284] Q. And they are presently registered and eligible to vote in Bienville Parish?

A. Yes.

Q. Directing your attention to about November, 1955, did you ever attend a meeting of the Police Jury, or were you called into a meeting of the Police Jury of Bienveille Parish?

A. Yes.

Q. What was the purpose of your being there?

A. It was at their special—not a special meeting, but their regular meeting. They called me in and asked me to comply with the registration laws with every registrant, and they also requested me to take one person at a time.

Q. Prior to that time—

A. And the reason they asked me to do that was because my office was so small and it would give the registrant time to fill out their card.

Q. Why did they ask you to comply with the registration law?

A. I don't know why they did.

Q. Had they ever asked you, prior to that time, since you had been in the office of the Registrar of Voters in Bienville Parish to comply with the registration law?

A. Yes, sir. I believe it was sometime in 1959.

Q. Prior to that time?

[fol. 285] A. No.

Q. Mrs. Culpepper, who pays your salary?

A. Half of my salary is paid by the governing body of the Parish, and half from the State.

Q. The governing body of the Parish is the Police Jury?

A. Yes.

Q. Returning for the moment to these people who came to your office to review your cards, did you or your agents, or your assistants, type out the affidavits of challenge?

A. No.

Q. Who did?

A. They had their own typist.

Q. Who hired them?

A. I have no idea.

Q. With respect to the adoption of the permanent registration system in Bienville Parish, will you describe the procedure whereby you affected transfer from periodic to permanent registration?

A. What do you mean?

Q. What did you do with respect to the persons who were registered to vote to get them on the permanent rolls?

A. You mean how I prepared my permanent registration?

Q. Yes.

Mr. Dalton: Your Honor, in the interest of brevity, we [fol. 286] have stipulated to that procedure.

Mr. Owen: I withdraw the question.

Mr. Dalton: We have also stipulated in conenction with his question as to why she was directed by the Police Jury to comply with the registration laws.

The stipulation reads that she was directed by the Police Jury to strictly enforce the registration laws.

She has always complied with them.

Mr. Owen: The stipulation doesn't cover what she understood as to why they made this request.

The Court: Go ahead.

By Mr. Owen:

Q. I hand you "G-12" which purports to be a page of the permanent certificates from one of the precinct registers in your Parish.

The Court: What is the purpose of this? To show the form of permanent registration?

Mr. Dalton: We are informed we stipulated to it—to the authenticity only.

Mr. Lassiter: I don't think counsel answered Your Honor's question as to the purpose.

[fol. 287] The Court: What is the purpose?

Mr. Owen: Your Honor, I offer this proof for two purposes, one: there is information on this card which

Mrs. Culpepper will testify to which she took from the registration cards in her file indicating she quite recently, after the purge, went through her cards to get this information.

For example, the birth, sex, color of eyes, mother's first and maiden name and town and name of the applicant; that is the first reason.

The second reason I believe it is relevant, it shows precisely what the registered voters in Bienville Parish who were not purged were required to do to get on permanent registration. They were not required to re-register. All they were required to do is simply sign their name to this certificate which we have stipulated she sent to them and returned to her.

This was the only effort that had to be made by the people who were on the rolls.

Mr. Dalton: The entire effort has been stipulated to, Your Honor.

Mr. Owen: Your Honor, the stipulation doesn't cover the information which appears on the card which she took from her registration books.

The Court: I will let you question her about that. It [fol. 288] may be repetitious. Let us hurry it up, please, sir.

By Mr. Owen:

Q. Mrs. Culpepper, the permanent registration certificates—you prepared these yourself—you, or your assistants?

A. Yes, sir.

Q. Where did you get the information which appears on the permanent certificates?

A. Off of the application cards.

Q. Was it necessary for you to go through the entire master files of application cards in your office to make this transfer to permanent registration to get the information on each certificate?

A. Yes.

Q. What was required of the voter to whom you sent this certificate to be placed on permanent registration?

Mr. Dalton: We have stipulated to that, Your Honor.

The Court: That has been stipulated.

Mr. Owen: I withdraw the question.

Your Honor, I would like to introduce "G-12" in evidence.

[fol. 289] The Court: Let it be filed.

(Whereupon the above described document was marked "G-12" and filed in evidence with the Clerk.)

Mr. Owen: Your Honor, I would like to reserve my right to recall Mrs. Culpepper on cross examination on other aspects of this case.

The Court: Why not take her in full now?

Mr. Owen: I feel, in terms specifically of the second aspect of this case, that I would prefer to have some of my other witnesses testify first.

The Court: All right.

[fol. 290] The Court: Do you have any more stipulations?

Mr. Owen: We are willing to stipulate with respect to two other witnesses, Mr. Ray Block and Mr. Don Quinn.

We will stipulate Mr. Block and Mr. Quinn were prepared to identify these ladies to Mrs. Culpepper in that Mr. Block actually talked to her and he told Mr. Quinn, who had been over there one time, and the ladies went back to school. On his way back, he told Mr. Quinn there wouldn't be any use to identify these people because he and Mr. Quinn were from different precincts than the ladies involved and that Mr. Quinn never confronted Mrs. Culpepper.

The Court: All right.

Marie Kilgore, called as a witness on behalf of the Government, being first duly sworn by the Clerk, testified as follows:

Direct examination.

By Mr. Owen:

Q. State your name?

A. My name is Marie Kilgore.

Q. What is your occupation?

A. My occupation is teaching school.

[fol. 291] Q. What educational qualifications do you have? How far did you get in school?

A. What do you mean?

The Court: How far did you go in school? What is your education?

The Witness: I have a Bachelor's degree.

The Court: From where?

The Witness: From Southern University.

By Mr. Owen:

Q. Anything else?

A. I have an M.A. degree.

The Court: From where?

The Witness: Columbia University.

The Court: Are those degrees in education?

The Witness: The M.A. degree is in student personnel administration.

By Mr. Owen:

Q. Will you state whether or not you are presently a registered voter in Bienville Parish?

A. No, sir.

Q. State whether or not you have ever attempted to reg- [fol. 292] ister to vote in Bienville Parish?

A. Yes, I have.

Q. Do you recall when that was?

A. What do you mean?

The Court: When was it that you tried to register?

The Witness: I don't remember the date, but the first time I tried, I registered. I don't remember the date.

By Mr. Owen:

Q. Was it about a year ago, or two years ago?

The Court: She said the first time she tried she registered. That was in 1956? Is that right?

The Witness: Yes, sir.

The Court: And you were challenged?

The Witness: Yes, sir.

The Court: And since then, have you tried to re-register?

The Witness: Yes, sir.

The Court: When was that?

The Witness: I don't remember the date when it was.

[fol. 293] The Court: The approximate year and month?

By Mr. Owen:

Q. Was it over a year ago?

A. Oh, yes, it was over a year ago.

Q. Over two years ago?

A. Yes, I think so. This is 1960—I imagine so.

Q. Would you state in your own words what happened and what was required of you when you went to attempt to register?

The Court: Where was this? In Arcardia? That you attempted to re-register?

The Witness: Yes, sir.

By Mr. Owen:

Q. State in your own words what happened when you attempted to register in Arcardia.

A. Well, I didn't register. You mean, the second time?

Q. Yes.

A. I didn't register that time.

Q. What happened when you went to the Registrar's office?

A. I don't remember exactly just what happened.

[fol. 294] The Court: Why is it you were not allowed to register?

The Witness: I couldn't interpret something I read.

By Mr. Owen:

Q. You recall what you read?

A. No, I don't.

The Court: Was it part of the Constitution of Louisiana, or of the United States?

The Witness: I don't even remember that. It was out of a book.

By Mr. Owen:

Q. When you read whatever you were supposed to read, state whether or not the Registrar asked you some questions about it?

Mr. Dalton: Just a second. Your Honor, I objected to a leading question the other day despite when he asked questions of his witnesses to "state whether or not the Registrar did so-and-so". He is suggesting to the witness the answer, and that is a leading question. He can ask her what the Registrar did. I object to the question as leading.

[fol. 295] The Court: Put it this way: did the Registrar, or did she not, do so-and-so.

By Mr. Owen:

Q. Did the Registrar, or did she not, require you to interpret whatever it was you were to read?

A. Sir, as near as I can remember, I don't remember her just requiring me anything special.

Q. Did she ask you any questions?

A. No, she didn't ask me any questions.

Q. Did you try to tell her what you had read—what it was you had read?

A. As I remember, I said a few things about what I read. I don't even remember what that was.

Mr. Owen: No further questions.

The Court: Here is the Louisiana Constitution, Article 1, Section 2. Would you mind reading that?

The Witness: Right here?

The Court: Yes, read it to yourself.

Tell me what the meaning is of that first sentence there? Read it aloud and then tell me what the meaning is?

The Witness: "No person shall be deprived of life, liberty or property except by due process of law." [fol. 296]

The Court: Tell me what that means?

The Witness: That means I shouldn't be deprived of life, liberty or property without the law has given the due process into it.

The Court: What does "due process" mean?

The Witness: As stated in the Constitution, it just means that I am not deprived of life, liberty and property except by due process of the law.

The Court: Would that contemplate court proceedings?

The Witness: I don't know.

The Court: The second sentence, read that out loud?

The Witness: "Except as otherwise provided in this Constitution, private property shall not be taken or damaged except for public purposes and after just and adequate compensation is paid."

The Court: What does that mean?

The Witness: This means to me—to me, this means, except as otherwise provided in this Constitution, private property shall not be taken or damaged except for public purposes—to me this means, when it becomes to the State of Louisiana private property is not going to be just taken from a person unless it is for the public benefit of the [fol. 297] State or the United States and then the person to whom that property belongs will adequate pay for it.

The Court: All right. Thank you.

Mr. Owen: We have no further questions.

Mr. Dalton: We have no questions.

The Court: You are excused.

* * * * * * *

[fol. 298] Thelma M. Tobin, called as a witness on behalf of the Government, being first duly sworn by the Clerk, testified as follows:

Direct examination.

By Mr. Owen:

Q. State your name?

A. Thelma M. Tobin.

Q. Where do you live?

A. I live at Castor, Louisiana.

Q. What is your occupation?

A. Teaching.

Q. What are your educational qualifications?

A. I received by Bachelor of Arts degree in elementary education from Southern University, Baton Rouge, Louisiana; Master of Arts degree in elementary education from Stanford University, Pala Alto, California.

Q. At any time yesterday during the taking of testimony, were you sitting in this courtroom?

A. I wasn't sitting in here yesterday during that time.

Q. Are you a registered voter in Bienville Parish?

A. No, sir, I am not a registered voter in Bienville Parish.

Q. In recent years, have you ever attempted to register?

[fol. 299] A. Yes, sir, I have.

Q. Where was this?

A. In Arcadia, Louisiana.

Q. When was it? Do you recall?

A. Well, I can give you from the beginning. I registered in 1951, re-registered in 1953, and in 1956, I received a citation and I attempted to re-register in 1957.

Q. In Arcadia, just state in your own words what happened when you went to the office of the Registrar in Arcadia to attempt to register the last time?

A. The last time I went to re-register, I gave my name, and upon doing so, I was asked for identification and I gave my driver's license. Then I was given the Constitution to read a portion and interpret same.

Q. Did you read it?

A. Yes, sir, I did read it.

Q. Did you attempt to interpret it?

A. Yes, sir, I attempted to interpret it.

The Court: With what subject did it deal?

The Witness: If I remember right, it dealt with rolling stock.

By Mr. Owen:

Q. I will give you a copy of Louisiana Constitution and [fol. 300] see if you can identify that page.

A. Yes, sir, I recognize it.

Q. What is it?

A. Section 16, Article 10.

Q. To the best of your recollection, this is the provision she gave to you; is that correct?

A. Yes, sir.

Q. Would you mind reading that provision?

The Court: Out loud, you mean?

By Mr. Owen:

Q. Out loud.

A. "Section 16. Rolling stock operated in State—Rolling stock operated in this State, the owners of which have no domicile therein, shall be assessed by the Louisiana Tax Commission and shall be taxed for State purposes only, at a rate not to exceed 40 mills on the dollar assessed value."

Q. Will you look at it very carefully and see if you can explain it by phrases, if you have to?

What do you think that provision means?

Mr. Dalton: If your Honor please, could I restrict her answer to what she told Mrs. Culpepper, not what she may [fol. 301] now understand it to mean?

By Mr. Owen:

Q. Do you recall what you told Mrs. Culpepper?

A. I am afraid my memory might not justify in saying just exactly what I told Mrs. Culpepper.

The Court: The sense of what you told her is what we want, not the exact words.

The Witness: I am afraid I might not be able to give it to you just as I gave it to her. However, I feel I can give the interpretation of it, now.

By Mr. Owen:

Q. Reading the provision now, does that recall to mind what you may have told her?

A. I does, possibly.

Mr. Dalton: I thought she said she didn't recall.

The Court: She said she wasn't sure. That is what it amounted to.

Mr. Dalton: The point I am making, we can't determine whether or not Mrs. Culpepper was correct in rejecting her interpretation if we can't obtain her answer she gave [fol. 302] at the time to Mrs. Culpepper.

The Court: In the first place, do you know what the term "rolling stock" means?

The Witness: Yes, I think I do.

The Court: What does it mean?

The Witness: I think it has to do with locomotives, freights, and passenger cars and the like.

By Mr. Owen:

Q. What does this provision say about rolling stock?

A. My understanding is that it means if the owner of which does not have residence within the State, his rolling stock shall be taxed not to exceed 40 mills on the dollar.

Q. Do you have any recollection as to what Mrs. Culpepper said to you after you attempted to interpret this provision?

A. She just said, "I am sorry. Your interpretation is incorrect." And I said, "Thank you." And went out.

Q. Did she, or did she not, allow you to fill out a registration card when you were there?

A. I did not have an opportunity to fill out a registration card that day.

The Court: Did she know what your education was? Was that explained to her?

[fol. 303] The Witness: Not at that particular time it wasn't Judge.

The Court: Was it explained to her before the conference was over?

The Witness: It was not.

The Court: Did she know you?

The Witness: Well, I have no way of definitely saying she knew me. However, I had been there twice before but I had no way of knowing whether she knew me.

The Court: Did she know what your profession was?

The Witness: I think possibly so, because that was on a previous registration.

Mr. Owen: You may cross-examine.

Cross examination.

By Mr. Dalton:

Q. When was the last time you visited Mrs. Culpepper's office and were asked about the constitutional provision dealing with rolling stock?

A. In 1957. I can't give the month and the date, but it was in 1957.

Q. Mrs. Culpepper handed you the Constitution and indicated that section and asked you to interpret it?

A. She did.

[fol. 304] Q. Have you read that section since then?

A. I have not read that section.

Q. Today is the first time you have read that section since 1957?

A. As I recall.

Q. Have you discussed that section, or this case, with anyone?

A. I have not, Your Honor.

Q. You have not been interviewed by anyone prior to your testimony here today?

A. I have been interviewed.

Q. You have discussed the case with them?

A. I have not discussed the case.

Q. What was the nature of the interview?

Mr. Owen: I wish counsel would make his questions a little clearer. I think the witness is confused about her position under the rule.

The Court: Have you discussed the case with Mr. Owen?

The Witness: Yes, I have.

By Mr. Dalton:

Q. Have you discussed it with anybody else at any time?

A. I have not.

[fol. 305] Q. Have you given any written statements?

A. I have not given any.

Q. Do you recall exactly what you told Mrs. Culpepper when she asked you to interpret that?

A. Well, I stated that previously.

Q. You stated what previously?

A. I told you I could not give you the exact words because I couldn't recall the exact words I gave Mrs. Culpepper, but after reading it this morning, I attempted to give you the interpretation of that particular section.

The Court: Let me ask you this: Do you think, in substance, your explanation this morning is the same as what you said to Mrs. Culpepper?

The Witness: In essence, Judge, I think possibly it was the same.

By Mr. Dalton:

Q. Would you explain to me, and I show you again, Section 16 of Article 10 of the Constitution, and ask you what is the chief purpose of that section?

A. To my knowledge, it would be to tax persons—individuals or companies that were possessors of rolling stock, that were not resident of the State, 40 mills on the dollar and to my understanding, not to exceed that amount.

[fol. 306] Q. In other words, your answer to my question was that the meaning of the section is exactly as it reads; is that your testimony?

A. That is.

Q. Did you so state that to Mrs. Culpepper?

A. Well, I did.

Q. Are you positive that you did?

A. Well, it seems, really, that you are trying to confuse me by the way you are stating it, but in essence I told her just that.

Q. I am not trying to confuse you at all. I am asking you if you are postive you told Mrs. Culpepper?

Mr. Owen: Your Honor, the witness testified three times, already—

The Court: I think you have gone as far as you can go, Mr. Dalton.

Mr. Dalton: That's all.

Cross examination.

By Mr. Morgan:

Q. You are the wife of Robert T. Tobin?

A. Yes, sir, I am his wife.

Q. He testified yesterday, I believe?

A. Yes, sir.

[fol. 307] Q. You only made this one trip since 1956 to attempt to register?

A. That's right.

Q. Are you acquainted with the names of the individual persons who are defendants in this suit?

A. There were a number of teachers from the Southside High School here yesterday.

The Court: He means the names of the people who have been sued by the Government in this case, other than Mrs. Culpepper and other than the Citizens Councils. Do you know the names of the individual defendants?

The Witness: I do not.

By Mr. Morgan:

Q. There had been nothing to prohibit you, had you wanted to, from going back and attempting another registration, has there?

A. Well, there has been because on the citation I was requested to have three registered voters from my precinct, which is precinct 2 in Ward 7, to identify the fact that I could register and there were none of my race. They were all white.

Q. In other words, you didn't go within the ten day period in answer to the challenge?

[fol. 308] A. I did not, for the simple reason that when I received it, the ten days had expired.

Q. Then, you attempted one time in 1957 after letting the challenge go by?

A. I did.

Q. That is the only effort you made to register—one time?

A. Yes, sir.

The Court: Was that because you felt you would not be allowed to register under any conditions?

The Witness: It was not. I felt I should try and maybe I would make it. I was not certain, but I just felt I should try.

The Court: I mean, after the time you went back in 1957?

The Witness: I see what you mean. I am sorry, Judge. Well I couldn't get the persons. They were white.

The Court: No. I mean after having taken the test on the Constitution and been turned down by Mrs. Culpepper, did you or did you not have the feeling that no matter what answer you gave you still would not be registered.

The Witness: Well, it seems that I did—definitely I did, because there was nothing else I could do after my inter-[fol. 309] pretation of the Constitution was incorrect and I didn't have the number of persons so I could be registered. I didn't attempt it for that reason.

Mr. Morgan: That's all.

Mr. Owen: I have no further questions.

The Court: You are excused.

EARL E. SMITH, called as a witness on behalf of the Government, being first duly sworn by the Clerk, testified as follows:

Direct examination.

By Mr. Owen:

Q. State your name?

A. Earl E. Smith.

Q. Where do you live, Mr. Smith.

A. I live four miles southeast of Bienville.

Q. What is your occupation?

A. Well, I was working at the planning mill at Danville.

Q. What part of Bienville Parish is that in?

A. It is kind of in the central part of it down toward Jonesboro—Hunt Lumber Company.

Q. Mr. Smith, are you a registered voter in Bienville Parish?

A. Yes, sir.

Q. When did you register to vote?

[fol. 310] A. Sometime last year.

Q. You recall whether it was in the spring or the fall or the winter?

A. No, I don't.

Q. It was sometime last year?

A. Yes, sir.

Q. Where did you attempt to register?

A. Arcadia.

Q. When you attempted to register, what happened when you went into the Registrar's office? What did the Registrar ask you to do?

A. She just asked me for identification and I showed her my driver's license, I believe is what I had.

Q. Are you acquainted with the registrar?

A. No, sir, not to know her. I have seen her a few times. I don't know her.

Mr. Lassiter: May it please the Court, I would like to inquire as to the purpose of this testimony?

The Court: I know what it is and you do too.

Mr. Lassiter: No, I don't. Thelma Tobin was on the stand and she testified as to identical facts as to identification.

The Court: I am going to let it in, I know what it is, and you do, too.

[fol. 311] By Mr. Owen:

Q. Did she, or did she not, ask you to fill out a registration card?

A. Yes, sir.

Q. Did she give that to you?

A. Yes, sir.

Q. Did you attempt to fill out the registration card?

A. Yes, sir.

Q. Did you attempt to fill it out entirely by yourself?

A. Yes, sir.

Q. What did you do with the registration card after it was filled out?

A. The best I remember, I gave it back to her.

Q. What did she do with it?

A. Well she give me one of the papers back after she took it and looked at it, and told me it was okay.

Q. Did she, or did she not, give you anything to read?

A. Yes, sir, I read one paragraph in a book.

Q. You recall what the book was?

A. No, sir, I don't.

The Court: Were you required to interpret it?

The Witness: Yes, sir.

[fol. 312] By Mr. Owen:

Q. You recall what the provision was about?

A. No, sir, I don't remember.

Q. Did you read it aloud?

A. Yes, sir.

Q. You read it aloud?

A. Yes, sir. I read it out to her.

Q. Were you then asked to do anything after you read it aloud to her?

A. She asked me—I forget now—but a few questions. I had to answer a few questions she asked me. I forget just how many it was. She asked me a few questions and I answered them for her.

Q. After you answered these questions, did she say anything? State whether or not she said that was okay, or was she silent?

A. She handed me a registration card and told me it was okay. I had to sign it.

Q. In other words, you had given her your registration card and then she asked you about the constitution and whenever was satisfactory, then she gave you some other card. What did that card contain?

A. Just showing the registration.

Q. Is that correct?

A. That is the best I can remember.

[fol. 313] The Court: I show you the first paragraph of article 14, section 24 of the Louisiana Constitution.

By the way, how far did you go in school?

The Witness: I haven't went to school.

The Court: You have never gone to school in your life?

The Witness: I been to the CCC and the Army.

The Court: Can you read?

The Witness: Very slowly. I will have to take my time on it.

The Court: Read the first paragraph of Section 24 if you will. Read it out loud.

I am not trying to embarrass you. Don't misunderstand me. This has a definite purpose.

Start right here at the word "the." Can you read it?

The Witness: No, sir, I can't.

The Court: Don't be nervous. I am not trying to embarrass you.

Let us skip back over here to another section, Article 1, Section 2.

Can you read that, sir?

The Witness: "A person shall be—"

The Court: Now about "no"?

[fol. 314] The Witness: "No person shall be a party of life, liberty or property, except by due process of law, except as otherwise proven—constitution proven properly shall not be taken or damaged except for public purposes and after just and—"

The Court: You can't read that word?

The Witness: No.

The Court: "Adequate".

The Witness: " . . . adequate".

The Court: "compensation".

The Witness: "—compensation as paid."

The Court: What does that mean, Mr. Smith? Can you tell us?

The Witness: I wouldn't know just how to explain it, sir.

The Court: Can you explain it at all?

The Witness: The rights shouldn't be took—I don't just exactly know how it should be explained.

The Court: What does it say with reference to taking private property for public use? What has to be done?

The Witness: I don't remember what it says about it.

The Court: Would you like to look at it again?

[fol. 315] I again tell you, sir, I am not trying to embarass you. This has a very definite point and purpose in this case.

The Witness: You mean what can't be done?

The Court: What does the provision with reference to taking the private property for public purposes—what must be done when that occurs? Can you tell from reading that?

The Witness: No, sir.

The Court: How old are you, Mr. Smith?

The Witness: Forty-three.

The Court: Thank you.

Mr. Owen: Your witness.

Cross examination.

By Mr. Dalton:

Q. Mr. Smith, isn't it a fact that the first thing that happened when you walked into Mrs. Culpepper's office was that she handed you a book and asked you to read a part of it and tell her what it meant?

A. Like I say, I don't remember whether that was the first thing, or not. It was either the first thing, or she asked me for identification. I don't know which one was first..

Q. Before you filled out any card, you were asked to read [fol. 316] a book and tell her what it meant; is that correct? Before you wrote anything?

A. I still say, I wouldn't be for sure whether it was the first or second thing.

Q. The whole event is pretty dim in your mind?

A. That's right.

Q. You don't recall what section of the book she asked you to read?

A. It has been too long for me to remember.

Q. You don't recall what the section was about, do you? What is your answer, sir?

A. No, sir, I just don't remember.

Q. And you don't remember either what you told her, or said to Mrs. Culpepper, do you, Mr. Smith?

A. No, I wouldn't be for sure what it was.

Mr. Dalton: That's all I have.

The Court: You have shown you can read a little bit. Can you write?

The Witness: About like my reading, sir.

The Court: Did you get any help from Mrs. Culpepper in filling out your registration application?

The Witness: No, sir, she did not help me.

The Court: What about calculating your age to the exact [fol. 317] number of years, months and days? Were you able to do that by yourself?

The Witness: Oh, yes, sir.

The Court: What was your birthday?

The Witness: Born 1917, July 29th.

The Court: Suppose you figure out for us right now, as of today—this is November 18—exactly how many years, months and days old you are right now.

Suppose you take this pencil and paper and figure out the exact number of years, months and days old that you are right now?

The Witness: I got it, 43 years, 4 months and 19 days.

The Court: The correct answer is 43 years, 3 months and 20 days.

The Witness: Today is the 18th?

The Court: 18th of November, yes, sir. It won't be four months until the 29th of November.

That is enough, Mr. Smith. Thank you.

This is a good point to take a fifteen minute recess.

(Short recess.)

[fol. 318] T. J. Lafield, called as a witness on behalf of the Government, being first duly sworn by the Clerk, testified as follows:

Direct examination.

By Mr. Owen:

Q. State your name.

A. T. J. Lafield.

Q. How old are you, Mr. Lafield?

A. I will be 48 on May 16.

Q. Where do you live?

A. Ringgold.

Q. What is your occupation?

A. Farm. Raise cows and farm.

Q. Are you presently a registered voter in Bienville Parish?

A. Well, I registered this last time.

Q. Do you recall when you registered?

A. I have voted in Red River Parish a pretty good while back, but that is the first time I voted in Bienville.

Q. You recall when it was?

A. Yes, it has been—I was about 22 years old.

Q. I mean, the most recent time you registered?

A. Last year.

Q. You recall the month, the day?

[fol. 319] A. No, sir, I don't remember just what day.

Q. But you believe it was 1959?

A. Yes, sir.

Q. Where did you register?

A. Arcadia.

Q. State in your own words what happened when you went to the Registrar's office in Arcadia?

A. Well, when I first went there, I didn't have no education and the one that registered me told me to go back and get two witnesses from my own home town in Ward 4, and I had to go back and get two witnesses that knew me in Ward 4, and when I come back I had the witnesses with me and I registered to vote.

The Court: You said you had no education. Did you go to school at all?

The Witness: No, sir. I passed out of the first grade. That's all I had.

By Mr. Owen:

Q. She told you you needed what?

A. Two witnesses to identify me.

Q. What happened then?

A. Well, I went and got my witness and I registered.

Q. Who were your witnesses?

[fol. 320] A. Well, one of them was B. D. Lafield and the other was Joe Woodward.

Q. Where does Mr. Lafield and Mr. Woodward live?

A. They live in Ringgold, and Mr. Woodward does, too.

The Court: Is V. D. S. Lafield your brother?

The witness: That is my wife, and the other one was my nephew.

By Mr. Owen:

Q. Did you know Mrs. Culpepper?

A. Well, I had been knowing her all along—just a short while.

Q. Do you drive a car?

A. Yes, sir.

Q. Did you have a driver's license with you when you went in?

A. Yes, sir.

Q. Did she ask you for the driver's license?

A. Well, I don't just remember. I think she did. I just don't remember, but I think she did.

Q. Did you show it to her?

A. Yes, sir.

Q. After you showed it to her she asked you to get two witnesses?

[fol. 321] A. Yes, sir, I had to go get two witnesses.

Q. Did you come back on the same day with Mr. Woodward?

A. No, sir. It was a day or two later that I come back.

Q. Now, what happened when you came back?

A. Well, I carried my witnesses in there and I registered.

Q. How did you register?

A. Well, I just signed the registration card.

Q. You just signed it?

A. Yes, sir.

Q. Did you fill it out?

A. No, sir. I just signed it.

Q. Can you read and write?

A. No, sir.

The Court: Who filled it out?

The Witness: Mrs. Culpepper.

Mr. Owen: Your Honor, the record will show that at the time there was a provision for illiterates.

By Mr. Owen:

Q. Is that all that you did, is just sign the card when you were in Mrs. Culpepper's office?

[fol. 322] A. Yes, sir, I think that's all.

Q. Did she ask you any questions?

A. She asked me a few questions, but I don't remember just what it was.

Q. About the card?

A. I just don't remember.

Q. In other words, is this, or this not, correct: You went in with two witnesses and what did these witnesses do?

A. They signed they been knowing me in my ward. They been knowing me for a long time.

Q. And after they signed, Mrs. Culpepper filled out your card; is that correct?

A. Yes, sir.

Q. And after she filled out your card, you signed the card; is that correct?

A. Yes, sir.

Q. And after that, that's all that happened; is that correct?

A. Yes, sir.

Q. Are you certain nothing else happened?

A. She read a little law book to me, or something like that, you know.

Q. Is that all she did?

A. Yes, sir.

[fol. 323] Q. Nothing else?

A. No, sir.

Q. And you left after that time?

A. That's right.

Mr. Owen: Your witness.

Cross examination.

By Mr. Dalton:

Q. Mr. Lafield, do you distinctly remember going in Mrs. Culpepper's office?

A. Do I remember going in?

Q. Yes.

A. Yes, sir, I remember.

Q. Don't you remember Mrs. Culpepper reading you something out of a book and asking you to interpret it?

A. That's what I said. She read me something, but I didn't remember just what it was, now.

Q. Did she ask you what it meant?

A. Yes, sir, she ask me what it meant.

Q. I show you an affidavit signed by you that says you are unable to read or write the English language and ask you if that signature there is your signature?

A. It is.

Q. These people that signed this affidavit saying that [fol. 324] they know the facts stated by you to be true, V. D. S. Lafield and Joe D. Woodward, they were with you in Mrs. Culpepper's office?

A. They was with me.

Q. Is V. D. S. Lafield any kin to you?

A. That is my wife.

Q. Did she know Mrs. Culpepper?

A. No, sir.

Q. Did Mr. Woodward know Mrs. Culpepper?

A. Just knew of her is all.

Q. Did you know her?

A. No, sir.

Q. Did she know you?

A. I don't know. I just knew of her. I don't know whether she knew me, or not.

Q. But this affidavit was executed in Mrs. Culpepper's office?

A. Yes, sir.

Q. And following the signing of this document, she then assisted you in filling out your registration card and filled it out for you?

A. After they signed.

Mr. Owen: Your Honor, I have stated the gentleman's card says that this is an application form for registration [fol. 325] for citizen who cannot read or write. I don't understand what this line of questioning is about.

The Court: Actually, he developed points that you didn't develop which are in your favor, that is, the Registrar didn't know either of these two people who identified him. Let him go. Maybe, he will help you.

Mr. Dalton: The Registrar will testify she did.

By Mr. Dalton:

Q. Do you know of your own knowwledge whether the Registrar knew your wife or Mr. Joe Woodward?

A. I don't know whether she knew them or not. I don't think she did.

Mr. Dalton: That's all.

Cross examination.

By Mr. Morgan:

Q. Mr. Lafield, were you interviewed by the F.B.I. recently?

A. Yes, sir.

Q. About two weeks ago?

A. About two weeks ago.

Q. Did they ask you about your education?

[fol. 326] A. They did.

Mr. Morgan: That's all.

Mr. Owen: Your Honor, with respect to further witnesses, I will be happy to stipulate the F.B.I. contacted them all.

The Court: Are you willing to accept that stipulation and save the question?

Mr, Morgan: Your Honor, I think we ought to get in the record a statement of how many people registered since January 1, 1957, and out of that list that have registered, that these people that are now testifying were interviewed by the F.B.I. and have been selected as witnesses.

The Court: You can put that on as part of your case.

By Mr. Dalton:

Q. Your wife is a registered voter in Bienville Parish, is she not?

A. She is.

Q. And also Joe A. Woodward is a registered voter in Bienville Parish?

A. He is.

Q. And was at the time they signed this affidavit?

[fol. 327] A. Well, my wife was, I know. I really don't know whether Mr. Woodward was, or not.

Mr. Owen: Your Honor, I would like to introduce this document in evidence as "G-14".

Let the record show it is a document which related only to the man's ability to read and write.

The Court: Mr. Morgan, I understand you represent the individual defendants only?

Mr. Morgan: Yes, sir.

The Court: Not the Registrar?

Mr. Morgan: That is correct, sir.

The Court: All of this information that you are talking about has nothing to do with your clients.

Mr. Morgan: Maybe I'd better keep quite.

The Court: Are you through with this witness?

Mr. Owen: Yes, sir.

The Court: You are excused.

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[fol. 328] Pauline A. Culpepper, called as a witness by counsel for defendant Culpepper, having been previously duly sworn, testified further as follows:

Direct examination.

By Mr. Dalton:

Q. Mrs. Culpepper, you stated that you changed your acceptance of the word "negro" after the blank on the card opposite "color" and that you now accept "black" and "brown"?

A. Yes, sir.

Q. I ask you, was this subsequent to your instruction by the Police Jury to strictly comply with the registration laws of the State of Louisiana?

A. It was after that.

Q. Your acceptance now of only "black" or "brown"; is your purpose in doing that do discriminate against members of the colored race?

A. No, sir.

Q. In your opinion, is "negro", a correct answer to the question "color"?

A. Well, I have accepted "negro" back in the past, but since 1955, I have tried to accept the color, which the card reads, "My color is".

Q. You do not now consider it correct?

A. No, sir.

[fol. 329] The Court: Mrs. Culpepper, again getting back to the discussion you and I had awhile ago on that subject: would you agree or disagree with the Court that the word "negro" is more truly descriptive of all members of the negro race than to try to give any color?

The Witness: No, sir, I wouldn't.

The Court: You would disagree with that?

The Witness: I don't quite understand.

The Court: Because of the fact that the color of negroes varies from dark, black and all the way up to white, would you not think that the word "negro" would be more truly descriptive than to use some shade of color?

The Witness: That is what I accepted, and the reason I wouldn't accept it now is because I wouldn't want that person to be challenged again because he filled in "My color is negro".

The Court: Did you have to accept those challenges where that was the only ground? Was there anything in the State law which said they had to answer "black" or "brown"?

The Witness: That is the way I understand the State law. I don't have any choice when two people come in and challenge someone's registration. I am compelled within forty-eight hours to send that out.

[fol. 330] The Court: All right. Proceed.

By Mr. Dalton:

Q. Have you refused any white applicants for registration, Mrs. Culpepper, since January 1, 1957?

A. Yes, I have.
Q. Could you tell us how many?
A. Oh, I would say between forty and fifty.

The Court: Suppose the white applicant would write, in answer to the question, "my color is", the word "Caucasian"?
The Witness: I would not accept it.
The Court: The color of white people's skin varies, doesn't it?
The Witness: Yes, sir.
The Court: Some of them are darker than some negroes?
The Witness: That's right.
The Court: And some of them have pink skin, and some of them have olive skin, and some of them have white skin, don't they?
The Witness: Yes, sir.

[fol. 331] By Mr. Dalton:

Q. Mrs. Culpepper, you observed the white citizens that the Government produced here in Court today to testify, did you not?
A. Yes, sir.
Q. You recall the Judge's request to you as to the possibility of their being a logical explanation of how that type person could be registered and highly educated negroes with college degrees, and Master's degrees, could not?
A. Yes, sir.
Q. Since you were on the scene and actually observed these negroes to attempt to register, is there a logical explanation for the fact that they were not registered?
A. As I stated to Mr. Owen, the majority of them that has come in since January 1, 1957, they have come in apparently with the idea they weren't going to get to register anyway, and some of them just refused to read a section in the Constitution as if "I don't have to do that".
Q. You presented the Constitution to them and asked them to interpret it?
A. Yes, sir. and some of them pushed it back, and I had one awhile back and he said, he is a preacher and he

preaches in several different churches—I have forgotten the names of the churches. He said he preached and if I [fol. 332] asked him if he read and understood the Bible, he said he would be able to do it.

I said, "If you can preach and teach the Bible, it looks to me like you could reach a little section of the Constitution". He stood there and looked at the book and he said, "That is not fair." And I said, "I don't see why you don't call it fair."

Q. Did these highly educated negroes display a spirit of cooperation in trying to register?

A. No, sir.

Q. What did they do?

A. They came in with an air as if I was against them, and I am not against a person in the world—not one. I try to be very considerate with everyone in the office.

Q. Consider the testimony of Arthur Salter and his attempt to register at Friendship and his registration at Friendship.

Did you know Arthur Salter?

A. I didn't know Arthur Salter in Arcadia, and I told him he would have to have two witnesses from his precinct. So, I didn't see Arthur any more until I visited the precincts in the fall of last year, and he came there and he had told me who he was, and Mr. Jess Harvey was out there, a school board member, and I asked him who the fellow was, and he told me, and when I went back over [fol. 333] there later on in the afternoon, Arthur came to register and I asked him for his driver's license, and he had it, and I accepted it.

I asked him to read. I don't remember whether he stated this morning I asked him to read a section of the Constitution, but I can hold my hand up and swear I have not registered a person in my office, and Judge, Your Honor, I am telling the truth. If I have ever told the truth in my life; I am telling it now. There has not been a person who registered in my office since November, 1955, that has not shown the identification and has not read some section in the Constitution.

I can lay down at night and go to sleep and I am not bothered about that. I certainly am not.

Q. Did you administer to Arthur Salter the complete test presently prescribed by law?

A. I certainly did.

Q. Did you give him an easier test than a colored registrant?

A. I have not.

Q. Have you ever at any time given a white registrant an easier test on procedure than that which you administered to colored applicants for registration?

A. No, sir, I have not, and don't intend to as long as I am the Registrar of Voters, because they are human beings as I am.

[fol. 334] Q. Consider the testimony of S. R. Bruce. Were you personally acquainted with Mr. Bruce?

A. Yes, sir, I have visited in the home with Mrs. Bruce.

Q. Was there any doubt he was not the person he was supposed to have been?

A. No, sir. I asked him for the driver's license.

Q. Did you ask him to interpret the Constitution?

A. Yes, sir.

Q. Did you give him an easier test than you did to a colored applicant?

A. No, sir.

Q. Considering the testimony of Owen Black. Were you personally acquainted with Owen Black?

A. No, sir, I was not personally acquainted with Owen Black, but I had seen Mr. Black on the streets in Arcadia, and I asked a friend of mine who lives in the Parish. We were talking, and I noticed him, and I knew I hadn't seen him in the Parish before and I asked who he was and she told me who he was, and his hair is long and gray and he is kind of unusual looking, and I asked who he was and when he came in to register, I asked him for his driver's license.

Q. Did you administer the Constitutional test to him?

A. I certainly did, and Mr. Black went through it with flying colors.

[fol. 335] Q. Do you have a formula for computing the age in years, months and days that might be a little different from the formula the Judge used this morning?

A. I don't know what the Judge used. I used the 30 days but some of my cards, they used the 31 day month.

Q. You accept both?

A. I have.

Q. Considering the testimony of T. J. Lafield, whose card you filled out. Do you have an independent recollection of his visit to your office?

A. Yes, sir, I certainly do.

Q. Did you personally know he, or the two witnesses he had with him?

A. I had seen Mr. Lafield in the Clerk's office several times through the years and I knew his face, and I knew he lived in Ward 4, and he came in to register one day while at the courthouse, and he told me he was unable to read and write, and I told him the procedure he would have to go through, and if he thought he was able to interpret the section of the Constitution with me reading it, to come back with two witnesses to sign an affidavit for him that he was unable to read and write.

Q. Were both witnesses who signed the illiteracy affidavit registered voters in the Parish?

A. Yes, sir, his wife and Mr. Woodward, came back with [fol. 336] him.

Q. Did you administer the Constitutional test to him?

A. Yes, sir, I sure did.

Q. Did you treat him any differently than you would a colored applicant?

A. No, sir.

Mr. Owen: Your Honor, let me enter this objection: counsel is leading the witness.

The Court: Don't lead her, Mr. Dalton.

By Mr. Dalton:

Q. Considering the testimony of James L. Deweese, who referred to a two-line constitutional test; I will ask you if you have ever given a two line Constitutional test during your tenure as Registrar?

A. I don't recall a two line test in the Constitution.

Q. Considering the testimony of Gloria Pyle, who at the time of the registration was listed as Gloria Martin, do you recall her visit to the office?

A. Yes, sir.

Q. Were you acquainted with her father?

A. I was acquainted with her father.

Q. Did you ask her to produce any identification?

A. I asked her for the driver's license.

[fol. 337] Q. Did you give her the complete registration test?

A. I certainly did.

Q. Let me finish my question.

A. Excuse me.

Q. Did you give her an easier test than you did a colored applicant?

A. No, sir.

Q. Considering Earl E. Smith, the Government's first white witness, do you have an independent recollection of his registration procedure?

A. I very well remember Mr. Smith.

Q. What was unusual about it, if anything?

A. Well, Mr. Smith came in and I asked him for his identification and he was awfully upset. I could tell he was very nervous, and I sat him down at the table in one side of my office and I carried the registration card over there and sat him down where he would be by himself, and I do not stand over their shoulder to bother them, because that is one reason the Police Jury asked me to take one person at a time so they would have a fair chance.

Q. Was he as nervous as he was here today?

A. Yes, sir.

Q. How long did you say it took him?

A. Forty-five minutes.

Q. Did you have him read a portion of the Constitution?

[fol. 338] A. Yes, sir, I sure did.

Q. Did you ask him to interpret it?

A. Yes, sir.

Mr. Owen: Your Honor, counsel is still leading.

The Court: You are still leading.

Mr. Dalton: She answered "yes" or "no". A leading question suggests the answer.

The Court: You are suggesting answers to her.

By Mr. Dalton:

Q. What did you do with Mr. Smith?

A. I asked him to read a section of the Constitution, which he did, and interpret it.

Q. Did he do so to your satisfaction?

A. Yes, sir.

Q. What was the condition of your office that day?

A. What do you mean?

Q. In respect to traffic?

A. There was no one coming in.

Q. You were not busy?

A. No, sir.

Q. Did Mr. Smith correctly figure his age on the card?

[fol. 339] A. I don't recall.

Mr. Owen: If Your Honor please—

The Court: I don't know how to tell you not to lead any plainer, Mr. Dalton.

By Mr. Dalton:

Q. Consider the testimony of Thelma Tobin. Was the Constitutional test of rolling stock—do you have an independent recollection of the constitutional test administered to Thelma Tobin concerning rolling stock?

A. Yes, sir, I do.

Q. Did you accept her answer?

A. No, sir.

Q. Why not?

A. Because she didn't say it was for non-resident owners.

Q. Did you administer to Thelma Tobin a more difficult test than you did white registrants?

A. I don't think so.

Mr. Owen: Object, Your Honor. He is stil leading the witness.

The Court: Mr. Dalton, put it in the alternative, where she can answer one way or the other.

[fol. 340] By Mr. Dalton:

Q. Will you state whether or not you administered to Thelma Tobin a more difficult test than you required of white applicants?

A. No.

Q. Consider Robert T. Tobin, the Stanford graduate. Do you have any independent recollection of his visit to your office?

A. I remember Robin coming in the office back in 1957. That is the only time I remember him being in my office.

Q. Do you recall any incident as to what occurred when he did visit?

A. I think I asked him to have someone identify him, because I didn't know him. He didn't tell me he was registered before. Had he, I would have gone to his card and that would have been proof enough.

Q. Consider Birdie Coleman and Truxilla Cleveland, as to their attempt to register in Ringgold at the fire station. Do you have an independent recollection of their attempt to register?

A. Yes, sir.

Q. Will you state what occurred?

A. I was down at Ringgold. I worked down there two days in September, 1959, I believe it was. I think, maybe, they stated it was October, but it was September, 1959. I [fol. 341] was working the precincts at the request of the Police Jury and these women came in. I was working in the back office, they call it, at the fire house. It was in the mayor's office, and they were out in the council meeting room, and stood in there and outside for—I don't know how long—and I just did not understand why they were doing that. That is the reason I asked them to get their witnesses to bring in because I knew it wouldn't be any trouble for them to get them.

Q. Have you ever seen either of the two women before?

A. I didn't recall, or I wouldn't have asked them to have somebody identify them.

Q. Referring now to 1956.

These people who visited your office and went through your files after office hours, did they ever identify themselves to you as members of any organization?

A. No, sir.

Q. Did you know of your own personal knowledge whether they represented any certain organization?

A. No, sir, I did not.

Q. Why did you instruct them to conduct such an examination—

Mr. Owen: Objection.

Mr. Dalton: On what ground?

[fol. 342] Mr. Owen: On the ground you are leading the witness.

The Court: That assumes something which has not been shown.

By Mr. Dalton:

Q. Why did they conduct their examination after your regular office hours?

A. Because I asked them to.

Q. Why did you do that?

A. Because I was busy in the office during office hours.

Q. What was your understanding of the law?

A. That is my understanding of the law, if you are busy and it would interfere with my work, anyone can come after office hours to inspect the registration rolls.

Q. What I am getting at, what is your understanding of the law as to your duties when a challenge is presented to you?

A. I have forty-eight hours to send it out. I prepare a citation to attach to it—a citation to erase. I believe is the heading of the affidavit.

Q. Did you understand you had any discretion in the matter?

A. I don't think I have any.

Q. Were you operating your office that way when you [fol. 343] received a challenge?

A. Yes, sir.

Q. Did you have any discretion as to whether to accept it, or not?

A. No, sir.

The Court: Let me ask you this question, Mrs. Culpepper: You opened your office after hours for these members of the Citizens Council to canvass your rolls and make all these challenges. That is correct, is it not?

The Witness: Yes, sir.

The Court: Would you do the same if your office was crowded during the day for any voter applicant to let him register to vote after hours?

The Witness: Yes, sir.

The Court: Have you ever done that?

The Witness: Yes, sir. I have stayed out in the precints every year. I stayed many times after dark and drove home at night by myself and I don't think I had a registrant that can say I haven't stayed and registered him. In fact, I stayed last year in September at the mill below Castor until 7 o'clock.

By Mr. Dalton:

Q. Have you ever required any white applicants for reg- [fol. 344] istration to produce two witnesses to identify themselves?

A. I sure have.

Q. I show you seventeen documents signed by one Pauline A. Culpepper and some signed by Pauline A. Sims and ask you what they represent?

A. They are proof of identify.

The Court: What period of time does this cover?

The Witness: 1955 up to now.

The Court: In other words, there have been seventeen of them since 1955. Is that all?

The Witness: I don't recall whether I have any more in the office, or not. I just picked up those and brought them.

The Court: If you had more, would you have brought them?

The Witness: I don't know, Judge. I just picked those up and brought them along. I didn't know whether you could use them, or not, or whether they would be proof of anything.

By Mr. Dalton:

Q. State whether or not those proof of identify are for [fol. 345] white or colored voters?

A. Those are all white.

Mr. Dalton: In connection with the witness' testimony, Your Honor, I would like to offer, produce and file in evidence seventeen proof of identify of white voters in Bienville Parish.

The Court: Give us the earliest date and the latest date, please.

Mr. Dalton: Beginning on the 5th of October, 1955, and the last one being dated the 26th day of July, 1960, and ask they be marked in toto as "Culpepper 1".

The Court: What is the objection?

Mr. Owen: My objection is as to the pre-1957. We have not alleged, nor have we introduced evidence with respect to her practice prior to that time.

The Court: I think your objection goes to the weight and not the admissibility.

Mr. Owen: I merely would like the record to reflect ten of these—the dates on ten of these are dates subsequent to the filing of this suit.

The Court: Let the record show that.

Let them be admitted in evidence.

(Whereupon the above described documents were marked [fol. 346] "Culpepper 1" and filed in evidence with the Clerk.)

By Mr. Dalton:

Q. State what procedures you followed, Mrs. Culpepper, when these people wanted to examine the records and appeared at your office?

A. You mean when they came in that night?

Q. Yes.

A. There was several of them came in the office. My office was small and I had a small counter not any longer than that desk, and they stood around the counter and I read the affidavit of challenge over to them and I told them whenever they signed that they were swearing to it. That is what I used in swearing them in. Whenever they signed them, they signed them before me after they would make up the affidavits before me.

Q. How many nights did they visit your office?

A. Three nights.

Q. Was the same procedure followed each night?

A. I don't recall about that.

Q. State whether or not you have an independent recollection of an interview with F.B.I. Agent Augustine?

A. Yes, sir. Mr. Augustine came to my office three times.

Q. Do you recall what you told him the first time?

A. I don't recall everything I told him. I didn't have [fol. 347] much to tell him. I told him just about what I have told you here today.

Mr. Dalton: That's all, Your Honor.

Cross examination.

By Mr. Owen;

Q. Mrs. Culpepper, you stated that the Police Jury asked you to comply with the registration laws sometime in November, 1955.

Did they tell you to refuse to accept applications which had as an answer for the blank "my color is" the word "negro"?

A. No.

Q. They did not tell you that?

A. No, sir.

Q. You state forty or fifty applicants have been rejected by you.

What period does that cover?

A. I would say since we have been in permanent registration.

Q. Do you have any records dealing with these applicants?

A. No, sir, I didn't know I would ever need a record, Mr. Owen.

[fol. 348] Q. What was the reason for rejection of some of these applicants?

A. The majority of them was they couldn't prove their identity, or they couldn't interpret the Constitution. I believe most of them couldn't interpret the Constitution.

Q. Were some of these rejections fairly recent?

A. When I was registering people for the November election.

The Court: November, 1960?

The Witness: Yes, sir.

By Mr. Owen:

Q. You recall any errors which these white applicants made in interpreting the Constitution?

A. No, sir.

Q. With respect to Mr. Salter, about whom you testified, will you state precisely how you came to know that Mr. Salter was, in fact, Mr. Salter?

A. Well, when he came to my office, he told me who he was and then I told him he would have to have his two witnesses and when I worked the precinct I talked to two citizens that lived right there next to the building where I was working and asked them about Mr. Salter.

Q. Have you ever asked anybody about the identify of [fol. 349] any colored applicants who made application in your office?

A. Yes, after they leave out of the office, if I don't know them and if some one is standing in the hall, I try to find out who they are.

Q. With respect to Mr. Black, who did you ask about Mr. Black—his identify?

A. It was Mr. Smitherman in Ward 6 and his wife.

Q. You stated you have an independent recollection of the mistake that Thelma Tobin made in interpreting a provision in the Constitution.

You recall, Mrs. Culpepper, when Mrs. Tobin attempted to register?

A. No, I don't.

Q. Would it refresh your recollection if I suggested Mrs. Tobin testified she attempted to register sometime in 1957?

A. No, I don't recall that.

Q. But, you have an independent recollection of the error which she made in interpreting the Constitution?

A. Yes, I do, because I wondered why Thelma would make an error like that.

Q. And yet, you state that you have no independent recollection of the particular reasons why a white applicant who had been rejected recently was rejected?

A. I just rejected them because they didn't interpret the [fol. 350] section I gave them to my satisfaction.

Q. But you don't remember what mistake they made; is that correct?

A. No, I don't.

Q. In Ringgold, these ladies that you said that came to attempt to register, did you ask anybody about who they were?

A. No, because I was busy. After I wasn't busy, I went up and talked to some of the men in the office after they had come and gone.

Q. Did you ask any of these ladies who were attempting to register in Ringgold, if they had a driver's license?

A. No, I didn't.

Q. Why didn't you ask them if they had a driver's license?

A. I explained that once before. I was suspicious of them because I didn't know what they meant standing around like they did.

Q. Let me ask you this:—

The Court: A driver's license requires a person's signature, does it not?

The Witness: Yes, sir.

The Court: Couldn't you have asked them to sign their name and compare it with the signature on the driver's [fol. 351] license to see whether or not it would identify them?

The Witness: I have never used that procedure.

The Court: Wouldn't that be as good as most procedures?

The Witness: I was suspicious of them, as I told you and I knew it wouldn't be hard for them to get residents of Ringgold.

The Court: When they got two white men to identify them, you rejected them because they were from a different precinct?

The Witness: They were from a different precinct. That is the State law, Judge.

By Mr. Owen:

Q. Do you know John C. Howard?

A. I don't recall.

Q. Do you konw James E. Walsworth?

A. Yes.

Q. Do you know where he lives?

A. Yes, sir.

Q. Where does he live?

A. If it is the Walsworth I am thinking about, he lives in Ward 7, Precinct 2, I believe.

[fol. 352] Q. Do you have an independent recollection of his attempt to register?

A. I believe Mr. Walsworth—he is either illiterate or a physical disability.

Q. Do you have an independent recollection as to the time he attempted to register?

A. No, sir, not too much. I don't remember the year or month he registered.

Q. Do you know a Sally P. Blake?

A. Yes, sir.

Q. Do you have an independent recollection as to the time she attempted to register?

A. I believe Sally registered the day I was in Ringgold: Sally lives in my home town of Gibsland, Louisiana.

Q. Do you know Alice W. Rushing?

A. I don't recall.

Q. Do you have an independent recollection of the attempt of Alice W. Rushing to register to vote?

A. I don't believe.

Q. Do you know Mary C. Salter?

A. No.

Q. Do you have an independent recollection of Mary C. Salter's attempt to register to vote?

A. No.

Q. Do you know Gloria Salter?

[fol. 353] A. No.

Q. Mrs. Culpepper, do you really have an independent recollection of the circumstances surrounding the attempts by the witnesses who testified, both white and colored—the events which surrounded their attempts to register in your office?

A. I do not.

Q. You do not have an independent recollection?

A. Not all of them. I do of some, if something happened that stood out that impressed me and it stayed with me. Otherwise, I don't have.

Q. You do not have an independent recollection of all the persons who testified here in Court as to what transpired in your office; is that correct?

A. I would say the majority of them that testified here today, that I do.

Q. Will you tell me why you have an independent recollection of the attempt of Mr. James Deweese to register? What struck in your mind with respect to him?

A. I don't recall right now.

Mr. Owen: I have no further questions.

[fol. 354] Re-direct examination.

By Mr. Dalton:

Q. State how many persons you have registered since January 1 of 1957 in Bienville Parish?

A. I don't have any idea. I would say something around three hundred.

The Court: About a hundred a year?

The Witness: Yes, sir.

The Court: About two a week?

The Witness: Yes, sir. Some weeks I go for weeks and don't register a person and they all pile in before election and stand out in the hall.

In the building where they added on the jail and added on the Parish offices, they fixed two rooms for the Registrar's office and it was for the convenience of the people so they won't have to stand up in the halls, and they have a nice chair and table to sit down by and I let them take their own time.

Mr. Dalton: That's all.

Mr. Morgan: I have no questions, Your Honor.

Mr. Owen: That's all, Mrs. Culpepper.

The Court: You may step down.

Mr. Dalton: The defendant, Mrs. Culpepper, rests.

[fol. 355]

PLAINTIFF'S EXHIBIT No. 20B

Civil Action No. 8695

UNITED STATES OF AMERICA, Plaintiff,

v.

ESTELLE WILDER, ET AL., Defendant.

EXCERPTS OF PROCEEDINGS

[fol. 356-8] DAISY LEE KNOX, Colored Female, called as a witness on behalf of the Government being first duly sworn by the Clerk, testified as follows:

Direct examination.

By Mr. Dunbaugh:

Q. Please state your name and address?

A. Daisy Lee Knox, Jonesboro, Louisiana, General Delivery.

Q. How long have you lived in Jackson?

A. Since 1944.

Q. Are you a registered voter in Jackson Parish?

A. No, I am not.

Q. Have you ever been a registered voter in Jackson Parish?

A. No.

Q. Have you ever applied for registration?

A. I have.

Q. What sort of work do you do Miss Knox?

A. I teach school.

Q. In Jackson Parish?

A. Right.

The Court: Do you have a degree?

The Witness: Yes, sir.

[fol. 359] The Court: From where?

The Witness: Grambling College.

The Court: BA?

The Witness: BS.

The Court: What subject do you teach?

The Witness: General business and typing.

By Mr. Dunbaugh:

Q. Do you recall about when it was that you attempted to register to vote in Jackson Parish?

A. I don't remember the exact date, but it was somewhere around about Christmas last year—after Christmas or just before Christmas. I don't know.

Q. Where did you go to register?

A. I went up to the Court House building to the officer of the Register.

Q. When you got there, what happened?

A. I went along with Miss Cochran. She is a teacher there. I don't recall if she asked could she help or not. Anyway, she told us one would have to go back outside and I went outside and waited until Miss Cochran finished.

Q. I take it you eventually did get inside?

A. Yes.

Q. What happened when you got inside?

[fol. 360] A. I believe the first time she asked if I was a teacher, too, so I presume by that Miss Cochran told her she was a teacher also and she had me to read the Preamble.

Q. The Preamble of what?

A. Of the United States—part of the Constitution.

Q. She had you read it out loud?

A. Yes.

Q. And then what happened?

A. She read it back to me and had me to write part of it. I don't think I wrote all of it, but some of it I did.

Q. What happened after that?

A. After that she read another part of the Constitution which had to do with the President of the Senate, I believe, and asked me to interpret it.

Q. Did you do so?

A. I said what I thought was right.

Q. Did the Registrar read it to you or did she have you read it?

A. She read it to me.

Q. Did she ever let you look at the book?

A. No.

Q. Did you ask her if you could?

A. Yes.

[fol. 361] Q. What did she say?

A. She said she would have to read it to me..

Q. What happened after you told her what you thought of it?

A. She said, "That is the shortest part of the Constitution. If you can't interpret that we can't help you."

Q. I am going to show you what has been marked as Government's Exhibit 12 and ask you if you can identify it?

A. Yes, sir, this is what I wrote. She read part of it back to me.

Q. There is some writing on the front. Did you write that?

A. No.

Mr. Dunbaugh: I offer Government's Exhibit 12 in evidence.

The Court: Let it be filed.

(Whereupon the above described document was filed in evidence with the Clerk.)

By Mr. Dunbaugh:

Q. Miss Knox, Government's Exhibit 12 which you just looked at is blank except for your writing on the back and somebody else's writing across the front; is that true?

[fol. 362] A. Yes, sir.

Q. Didn't you get to fill out a form?

A. No, sir.

Mr. Dunbaugh: No further questions.

Cross examination.

By Mr. Kron:

Q. Have you been back to the registration office at the Court House since December, 1961?

A. No, sir.

Q. Had you ever attempted to register prior to that time?

A. No, sir.

Mr. Kron: That's all.

[fol. 363] Joan Dunn, Colored Female, called as a witness on behalf of the Government, being first duly sworn by the Clerk, testified as follows:

Direct examination.

By Mr. Dunbaugh:

Q. Will you please state your name and address?

A. Joan Dunn, Jonesboro, Louisiana, General Delivery.

Q. Are you a registered voter in Jackson Parish?

A. No, I am not.

Q. Have you ever applied for registration?

A. Yes.

Q. Do you recall about when that was?

A. I think it was along when the public library was having to vote for it.

Q. Do you have any idea about when that was?

A. No, I think it was in 1961. I am not sure.

Q. When you went to register, where did you go?

A. I went inside the Court House. It is on the main floor and it is to the left of the building right on the other side of the fountain.

Q. When you got there, what did you have to do?

A. There was three of us and all of us went in and I [fol. 364] said I wanted to register and she said, "One at a time."

So, two of us had to go out and let one in at a time.

Q. Did you get to go in eventually?

A. I went in second.

Q. What happened after you got in?

A. I told her I wanted to register and she opened the book and said, "Read this." And I read it.

Q. When she said, "read this", did she indicate something?

A. Yes, it was part of the Constitution. I don't know whether it was an amendment or the article, but it was some part of the constitution.

Q. What did you do then?

A. I read through hurriedly and then she said, "Interpret it."

Q. After you read through it, what happened after that?

A. Well, I wanted to read it again because I didn't get an understanding, but she didn't let me.

Q. Why didn't you read it back again?

A. I asked her to let me read it again and she told me I couldn't read it again.

Q. Did she take the book away?

A. Yes, she closed it.

[fol. 365] Q. While you were reading it, Mrs. Dunn, did you know that you were going to have to explain it?

A. No, because she didn't say "interpret it." I would have understand it if I would have known.

Q. Did you interpret it?

A. No, because I went through hurriedly and I don't remember what I read.

Q. How old are you, Mrs. Dunn?

A. I am twenty-three.

Q. How long have you lived in Jackson Parish?

A. I have lived practically all my life except two years.

The Court: How far did you go in school?

The Witness: I finished.

The Court: Finished high school?

The Witness: Freshman in college.

The Court: You are a Freshman in college now?

The Witness: Yes.

Mr. Dunbaugh: No further questions.

Cross examination.

By Mr. Kron:

Q. When was this you attempted to register?

A. I am not sure, but it was along the time we had to [fol. 366] register to vote for going to the public library in Jackson Parish.

The Court: Was that in 1962 or 1961?

The Witness: I don't know. That is what I told him, I don't remember.

By Mr. Kron:

Q. Has it been during the last six months?

A. No, I don't think it has been that long.

Q. You can't remember?

A. No, I don't remember.

Q. Has it been since last Christmas or before last Christmas?

A. If I remember that, I could tell, but I don't remember.

Q. Why is it you remember all the details in the office and you don't remember whether it was before last Christmas or since that you went there?

A. I can't explain it. I am not a psychiatrist.

Q. You got a convenient memory?

A. I can remember what she told me.

Q. You can't remember when?

A. No.

Q. When is your birthday?

A. September 24th.

[fol. 367] Q. You have to be a psychiatrist to remember that?

A. No.

Q. Why is it you remember?

A. Because it is well known.

Q. Is Christmas well known?
A. Yes.
Q. Were you in this office before last Christmas or since then?
A. No.
Q. It wasn't in the last six months?
A. No.

Mr. Kron: That's all.

Redirect examination.

By Mr. Dunbaugh:

Q. Did you get to fill out an application form?
A. No, I didn't.
Q. Who did you go with?
A. Mrs. Nadette Monroe and Miss Josephine Bolton.

The Court: Did either one of them get to register?
The Witness: No, she turned all of us down.
Mr. Dunbaugh: No further questions.

[fol. 368] **Erven Hodge Bryan**, White Male called as a witness on behalf of the Government, being first duly sworn by the Clerk, testified as follows:

Direct examination.

By Mr. Dunbaugh:

Q. State your name and address, please?
A. Erven Hodge Bryan, Hodge, Louisiana.
Q. How long have you lived in Jackson Parish?
A. Almost twenty years.
Q. Are you a registered voter in Jackson Parish?
A. Yes, sir.
Q. You remember when you applied for registration?
A. 1960, I believe.
Q. I am going to show you what has been marked as Government's Exhibit 2-160. You recognize that?
A. Yes, sir.

Q. What is it?

A. On the date of 9 and 24, resident number Hodge 109.

Q. Is that the application card?

A. Yes, sir.

Q. Is that your application card?

A. Yes, sir.

[fol. 369] Q. And the date on there is 9/24/60?

A. Yes, sir.

Q. Is that the time when you applied?

A. Yes, sir, I guess it is.

Q. When you applied for registration, Mr. Bryan, what did you have to do?

A. Well, I just filled out a blank. That's all.

Q. You didn't do anything else but fill out a blank?

A. Filled out a blank.

Q. Did you have to read the blank back?

A. No, sir, I didn't read it back.

Q. Did you have to read anything?

A. Well, in order to fill it out, I did.

Q. I mean out loud? Did you have to read anything out loud?

A. No, sir.

Q. Did you have to explain anything?

A. No, sir.

The Court: Did you have to interpret the Constitution?

The Witness: No, sir.

By Mr. Dunbaugh:

Q. Can you read that all right? What does that say [fol. 370] that I am pointing to at the top?

A. "Form of application for registration."

Mr. Dunbaugh: I offer in evidence Government's Exhibit 2-160.

The Court: Let it be filed.

(Whereupon the above described document was marked 2-160 and filed in evidence with the Clerk.)

The Court: How far did you go in school?
The Witness: The seventh grade.

By Mr. Dunbaugh:

Q. Mr. Bryan, how do you pronounce this word?
A. Registration.

The Court: For the record, let it be shown that the word is "registrar".
Mr. Dunbaugh: No further questions.

Cross examination.

By Mr. Kron:

Q. Mr. Bryan, you didn't have to explain to the Registrar anything about the workings of your Government?
A. No, sir.
Q. She gave you no test at all on the interpretation of the Constitution?
A. No, sir, I got no help whatsoever.
[fol. 371] Q. I am not referring to help. I am wondering whether or not you were asked to explain what kind of Government we live under. We are not talking about your getting any help. We are talking about your having to take a test to understand whether you understood this kind of Government.

Did or did not Mrs. Wilder ask you to explain to her some sentence or portion of the Constitution?
A. I don't remember, to tell you the truth.
Q. Could she have asked you that and you not remember it?
A. I don't remember that.
Q. Let me ask you this: Up to now all of the answers you have given to the questions about the reading, and what not, you thought Mr. Dunbaugh was talking about someone helping you; is that right?
A. No, sir, I didn't think that.

Q. Could you have been given such a test and not remember it?

A. I don't believe I had been given a test.

Q. Were you asked to read out of a small book some portion of the Constitution to Mrs. Wilder?

A. No, sir.

Q. You are positive of that?

A. Almost positive.

[fol. 372] Q. Almost positive?

A. Yes, sir.

Q. If Mrs. Wilder would testify you were given the test, what would you say about that? Could you be mistaken?

A. Well, now, that has been so long that I don't know.

Q. Actually, you really don't remember?

A. I really don't remember.

Q. Did your wife pass the first time you and she went together?

A. She went before I did and she didn't pass. She had to come back and study a little slip that she gave her. But I passed and went back the second time and we both passed.

Q. Your wife failed one time?

A. Yes, sir, the first time.

Q. You remember what she failed?

A. She failed to spell "Democratic", I believe.

Q. Finally, and I mean you: You could have been given such a test and not remember? You just don't remember?

A. I just don't remember.

Mr. Kron: That's all.

[fol. 373] Redirect examination.

By Mr. Dunbaugh:

Q. Mr. Bryan, you said your wife studied a slip she gave her. What sort of slip was that?

A. Well, I don't remember that because she didn't give me one to study.

Q. Did you see the one your wife had?
A. No, sir, I didn't.

Mr. Dunbaugh: No further questions.
Mr. Korn: That's all.
The Court: You are excused.

Five minute recess.

(Short recess.)

[fol. 374] Mary Edith Bryan, White Female, called as a witness on behalf of the Government, being first duly sworn by the Clerk, testified as follows:

Direct examination.

By Mr. Dunbaugh:

Q. Please state your name and address?
A. Mary Edith Bryan, Box 107, Hodge, Louisiana.
Q. How long have you lived in Jackson Parish?
A. For twenty years.
Q. Are you a registered voter in Jackson Parish?
A. Yes, I am.
Q. How many times did you apply for registration?
A. Twice.
Q. I show you what has been marked as Government's Exhibit 4-2. You recognize that?
A. Yes, I do.
Q. I also show you what has been marked as Government's Exhibit 2-162. Do you recognize that?
A. Yes, I do.
Q. What are they?
A. Well, they are applications for registration of voters.
Q. Are these applications that you filled out?
[fol. 375] A. Yes, they are.
Q. Is this one, number 4-2 which is dated September 23, 1960, the one you filled out and failed on?
A. No, it isn't.
Q. The one numbered 4-2 is dated September 23, and the one numbered 2-162 is dated September 24th. Did you fail the first day and pass the second day?

A. Yes, I failed and then passed the next day.

Q. On the first day that you went into the registration office, what did you do?

A. Well, I applied to register.

Q. You filled out this application that I just showed you?

A. Yes, I did.

Q. When you were through with that, what did you do with the application?

A. The first time?

Q. Yes?

A. I handed it back to the Registrar.

Q. What did she say?

A. She said I had failed.

Q. Did she tell you why?

A. Yes, she said I would have to learn to spell this word correctly.

Q. What word is that?

[fol. 376] A. "Democratic."

Q. Did you have to do anything else that day?

A. No, that's all and I went home.

Q. How about the next day when you went back? What did you do the next day?

A. I filled out a card just like the one I had filled out the day before.

Q. That is this other card 2-162?

A. Yes.

Q. When you got through with the card, what did you do with it?

A. I handed it back to her.

Q. What happened then?

A. She gave me a little card saying I was eligible to vote.

Q. Did she ever ask you on either one of these occasions to read the card to her?

A. That I don't remember.

Q. Did she ask you to read anything out loud?

A. I don't remember. I certainly don't.

Q. Did she ask you to explain anything?
A. I don't remember that. I am sorry.
Q. Did the Registrar read anything to you?
A. I don't remember.
Q. You remember whether or not you had to interpret [fol. 377] the Constitution?
A. I don't remember.
Q. Do you think if you had been asked to interpret the Constitution you would remember it?
A. I don't know.

The Court: Have you ever seen the Constitution?
The Witness: That I don't remember.
Mr. Dunbaugh: I want to offer in evidence 4-2 and 2-162.
The Court: Let it be filed.

(Whereupon the above described documents were filed in evidence with the Clerk.)

The Court: Where did you learn to spell Democratic? Between the 23rd and the 24th?
The Witness: I went home and I have children in school and I asked them how to spell it.
Mr. Dunbaugh: No further questions.

Cross examination.

By Mr. Kron:

Q. On the 23rd when you failed that first test, did the registrar give you a sheet of paper with anything on it to go home and study?
A. No, she didn't.

[fol. 378] The Court: How far did you go in school?
The Witness: Fifth grade.
Mr. Kron: That's all.
The Court: You are excused.

[fol. 379] **Bernice Grant**, Colored Female, called as a witness on behalf of the Government, being first duly sworn by the Clerk, testified as follows:

Direct examination.

By Mr. Dunbaugh:

Q. Will you please tell us your name and your address?
A. My name is Bernice Grant, Post Office Box 162, Chatham, Louisiana.
Q. Are you a registered voter in Jackson Parish?
A. I was registered at one time.
Q. Are you registered now?
A. No, I am not.
Q. How old are you, Mrs. Grant?
A. I am thirty-four.
Q. What sort of work do you do?
A. I teach in East Carroll Parish.
Q. Do you have a college education?
A. I do.
Q. What degrees do you have?
A. I hold a BS Degree.
Q. From where?
A. Grambling College.

[fol. 380] The Court: You teach in the high school or elementary school?
The Witness: Elementary school.

By Mr. Dunbaugh:

Q. I show you what has been marked Government's Exhibit 7-298. You recognize that?
A. A form of application for registration.
Q. Is that an application that you filled out?
A. That's right.
Q. What is the date on it?
A. September 8, 1956.
Q. Did you ever get to vote?
A. I did not.

Mr. Dunbaugh: I offer in evidence what has been marked Government's Exhibit 7-298.

The Court: Let it be filed.

(Whereupon the above described document was filed in evidence with the Clerk.)

By Mr. Dunbaugh:

Q. Since you were taken off the rolls, Mrs. Grant, have you applied for registration?

A. I did.

Q. In Jackson Parish?

[fol. 381] A. I did.

Q. You recall when that was?

A. I believe it was in 1960.

Q. Where did you go to register?

A. I went to Jonesboro, Louisiana.

Q. To the Court House?

A. I did.

Q. What happened when you got there?

A. I was given a book and a form. It looked as if it was a magazine. It had no writing at all on the back. It was a plain back and I was given this book and then I was told to read this amendment—the right to bear and keep arms.

Q. Did you read it?

A. I did.

Q. Out loud?

A. I did.

Q. What happened after you read it out loud?

A. I had to hand the book back.

Q. And then what happened?

A. She asked me to interpret it.

Q. Did you do so?

A. I did, and then she asked me, "What else?"

Q. What did you tell her?

A. I told her every citizen has a right to keep ammunition and protect his own house.

[fol. 382]

Q. What did she say after you told her that?

A. She said, "What else?"

Q. What did you tell her?

A. I wanted to see the book again, and then I looked at it and I told her the same thing and she said, "What else?" And she still had the book.

The Court: How do you pronounce the word "M-I-L-I-T-I-A?"

The Witness: "Military".

The Court: That is not right. It is militia.

Do you know what the militia is?

The Witness: Military means—every state has—it comes under the National Guard.

The Court: Every state has the right to maintain a militia.

By Mr. Dunbaugh:

Q. Did you get to fill out an application card at that time?

A. I did.

Q. Did you get registered?

A. No, I didn't.

[fol. 383] Mr. Dunbaugh: If defense counsel has no objection, I would like to mark this note that was in the Registrar's records as "Government's Exhibit 13" and offer in evidence.

Mr. Kron: That is all right.

The Court: Let it be filed.

(Whereupon the above described document was marked "Government's Exhibit 13" and filed in evidence with the Clerk.)

Mr. Dunbaugh: No further questions.

Cross examination.

By Mr. Kron:

Q. Since March of 1960, have you been back to the Registrar's office to register again?

A. I have not.

Q. You thought you were right in your interpretation in March of 1960?

A. I do.
Q. Why is it you haven't been back?
A. I just haven't been back.

The Court: Have you moved to East Carroll Parish now?
The Witness: I haven't moved over. I just work over there.
[fol. 384] The Court: You still have a home in Jackson Parish?
The Witness: I do.

By Mr. Kron:

Q. But you have not been back in the registration office since that time?
A. I have not.

Mr. Kron: That's all.
The Court: You are excused.

[fol. 385] **Darlean McCarter**, Colored Female, called as a witness on behalf of the Government, being first duly sworn by the Clerk, testified as follows:

Direct examination.

By Mr. Dunbaugh:

Q. State your name and address, please?
A. My name is Darlean McCarter, Jonesboro, Louisiana.
Q. How old are you, Mrs. McCarter?
A. Twenty-five.
Q. How long have you lived in Jackson Parish?
A. Twelve years.
Q. How much education do you have?
A. High school.
Q. Are you a registered voter in Jackson Parish?
A. No, I am not.
Q. Have you tried to register to vote in Jackson Parish?
A. I have.
Q. About how many times have you applied?
A. Six.

Q. Do you recall when the first time was when you applied?

A. Around March, 1960.

[fol. 386] Q. What happened in March, 1960?

A. Well, I went there and I filled out this application form and I gave it to her and I had to read it back to her, which I did.

Q. You filled out an application card?

A. That's right.

Q. After you filled it out, what did the Registrar do?

A. She told me to read it back.

Q. Out loud?

A. That's right.

Q. The whole form?

A. Well, I read everything that was on there.

Q. I want to show you what has been marked as Government's Exhibit 8-244 sub number 1. You recognize that?

A. I do.

Q. What is that?

A. This is an application form for registration.

Q. Is that one that has been filled out by you?

A. It is.

Q. That one is dated March 12, 1960. Do you think that is the first time you went there?

A. It is.

Q. On the original, there is this note attached, did you [fol. 387] write that? Is that your handwriting?

A. That is not my handwriting.

Q. Mrs. McCarter, after you filled out this application card the Registrar asked you to read the card?

A. That's right.

Q. Did the Registrar ask you to do anything else?

A. She asked me to answer two questions.

Q. Do you recall what those questions were?

A. One was why I was affiliated with the Democratic Party.

Q. What was the other Party?

A. Republican Party. The next question was to tell the difference between the Democratic and Republican Party and explain it.

Q. Did you tell her?

A. I told her why I was affiliated with it but I didn't tell her the difference between—I started but I got confused and I didn't do it.

Q. What did the Registrar say after you stopped telling her the difference?

A. Well, she told me if I couldn't do that, that was all that she could do for me.

Q. When did you go back?

A. I think it was the same month, in March.

[fol. 388] A. Well, she wanted to read out of a book something pertaining to the Constitution and which I did not read.

Q. Did you go back again?

A. After that time?

Q. Yes?

A. Well, I went back about, I think it was in June of 1960.

Q. What happened in June of 1960?

A. She asked me that time to read from the book and I read from the book.

Q. When you first got there, was that the first thing she asked you to do?

A. She asked me what I came for and I told her and she told me to be seated.

Q. And then what happened?

A. Then she taken out this book for me to read.

Q. What did she do with the book?

A. She had it and gave it to me to read.

Q. Did she point out what you were to read?

A. That's right.

Q. Did you read it?

A. I did.

Q. Then what did you do?

A. She told me to interpret it.

Q. Did she take the book back or did you get to keep it?

[fol. 389] A. I gave it back to her after I got through reading it.

Q. What happened then?

A. She asked me to interpret it.

The Court: Do you remember what it was about—what you read?

The Witness: Well, that has been an awful long time. I couldn't state exactly what it was, but it was something pertaining to treason.

By Mr. Dunbaugh:

Q. Did you explain to her what you thought it meant?

A. I started but I just didn't do it because I didn't understand it. If she would let me read it over, I probably would.

Q. Did you ask her if she would let you read it over?

A. At that particular time I didn't ask her to read it.

The Court: Do you know what "treason" means?

The Witness: I think I do.

The Court: Tell us.

[fol. 390] The Witness: I think it is a person who has—something that you have done in government that—it is some type of crime you committed.

The Court: It is a crime against the Government—to try to overthrow the Government or something like that?

The Witness: Yes.

By Mr. Dunbaugh:

Q. When was the next time you went there?

A. I think it was in July that same year.

Q. What happened that time?

A. Well, this time I had—I went in and she asked me what could she do—what could she do for me—and I told her I came to try to register again and she got me to read from the book again.

Q. Did you read it?

A. I did.

Q. Do you remember what that was about?

A. No, I don't.

Q. Then what happened?

A. She also told me to interpret it and each time—at that time I don't know what I told her, but I told her something but what it was, it wasn't right.

Q. Did you tell her what you understood it to be?
[fol. 391] A. No.

Q. On the second time, which was sometime in March, and in June, 1960 and July 1960, did you get to fill out an application card?

A. I filled out one time. That was the first time I went.

The Court: That was the only time?

The Witness: I did fill out two more.

By Mr. Dunbaugh:

Q. When was the next time you went to register?

A. The next time was—I think it was around in March of 1961.

Q. How many times did you apply in March, 1961?

A. Twice, I think.

Q. You look at these two documents here which have been marked Government's Exhibits 8-244 sub numbers 2 and 3. You recognize those?

A. I sure do.

Q. What are they?

A. They are applications for registration form.

Q. These applications that you filled out?

A. Those are.

Q. Referring to the one with the sub-number 2, there is some writing on a note that is attached. Did you write [fol. 392] that?

A. I did write it.

Q. Is that your writing?

A. It is my writing.

Q. On the one with sub-number three, there is also a note attached. Is that your writing?

A. That's right.

Q. On these occasions—let us take the first one—what did you have to do?

A. When I went in she asked me what could she do and I told her what I came for. I told her I came to register and she told me to take a seat. Then she let me fill out this card and after then she had me to read the Preamble and she dictated some of it back to me—not all of it—and I wrote it.

Q. Was that true on both of these occasions in March, 1961?

A. That's right. If I am thinking correctly, she read something out of a book about the Constitution and told me to interpret it.

Q. She have you read it this time?

A. No, but on the last occasion I didn't read the Preamble. She read it.

Q. She read it and you wrote it?

A. She dictated it to me.

[fol. 393] Q. She didn't have you read anything the last time?

A. No.

Mr. Dunbaugh: I want to offer in evidence 8-244 sub numbers 1, 2 and 3.

I notice the originals have some notes that are not attached to these. I would like to offer those attached to these.

The Court: Let them be filed.

(Whereupon the above described documents were filed in evidence with the Clerk.)

Mr. Dunbaugh: I have no further questions of this witness.

Cross examination.

By Mr. Kron:

Q. Why do you belong to the Democratic Party?

A. Well, I belong to it because it is one that I am for, that's why.

Q. Why are you for it?

A. Because I am.

Q. Do you have any intelligent reason to be a Democrat?

A. I think if you want to be for something, I think you can.

[fol. 394] Q. You are for it?

A. That's right.

Q. What does it mean?

A. Democratic?

Q. Yes?

A. Well, you ask me so many questions—I am not a genius and I can't answer all these questions.

Q. You are against the Republicans?

A. I am.

Q. What do they stand for?

A. I am not a genius and I can't answer all your questions.

Q. When Mr. Dunbaugh asked you what happened the first, second and third times you went into the registration office—I am talking about in 1960—and you answered him about reading back and interpreting this, and so forth, did you tell him the whole story about that—what happened in there?

A. I told him what he asked me.

Q. Let me ask you something. Didn't you kind of give Mrs. Wilder a pretty bad time and object to answering this thing?

A. On which occasion?

Q. On one of those three visits?

A. On the second time, I didn't think I was supposed [fol. 395] to read.

Q. Why not?

A. Because I filled out the card and she didn't tell me the card was wrong and at that particular time I thought that's all that was supposed to be done.

Q. Didn't you tell her that test was only for illiterates?

A. I can't tell you what I told her.

Q. That is what I am trying to find out.

A. I told her I thought if having me to read, I wasn't supposed to do that. If someone came in who couldn't read she was supposed to read it and have them interpret it to her. I told her she was doing me that way on account of I was a negro and I knew I was a negro and I was supposed to have my equal rights.

That is what I said to her.

Q. What is a Republican form of Government?

A. I am not a genius.

Q. You just don't understand anything about it?

The Court: You say you are against all Republicans?

The Witness: Well, I wouldn't exactly say I am against all of them.

The Court: Most of them?

The Witness: Most of them, I am.

[fol. 396] The Court: I am a Republican.

The Witness: I can't help that.

The Court: You are against me?

The Witness: I couldn't exactly say I was against you.

Mr. Kron: I have no further questions.

Mr. Dunbaugh: No further questions.

[fol. 397] ASSERLEAN RAYBON, Colored Female called as a witness on behalf of the Government, being first duly sworn by the Clerk, testified as follows:

Direct examination.

By Mr. Dunbaugh:

Q. Mrs. Raybon, state your name and address?

A. Chatham, Louisiana, Route 1, Box 4B.

The Court: What is your name?

The Witness: My name is Asserlean Raybon.

By Mr. Dunbaugh:

Q. Mrs. Raybon, how long have you lived in Jackson Parish?

A. All my life.

Q. How long is that?

A. Ever since 1890.

Q. Are you a registered voter in Jackson Parish?

A. Yes, sir, I been voting all the time. I tried to vote but I never have made it. I never voted but once and that was when I first went to regis and I regis one time and I have never been able to regis no more.

Q. Do you know how many times you tried since then?

A. Five or six or seven times. Somewhere along [fol. 398] there.

* * * * * * *

[fol. 399]

PLAINTIFF'S EXHIBIT No. 21A

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF LOUISIANA

BATON ROUGE DIVISION

Civil Action No. 2548

UNITED STATES OF AMERICA

vs.

STATE OF LOUISIANA, et al.

The deposition of John S. Allen, witness in the Federal Court Action, taken at the instance of plaintiff in the Federal Court Action, taken in the office of John S. Allen, Registrar of Voters, LaSalle Parish Court House, located in Jena, Louisiana, commencing at 8:47 A. M., on the 8th day of October, 1962.

APPEARANCES:

FRANK M. DUNBAUGH, ESQ., Department of Justice, Washington, D. C., for plaintiff.

HARRY KRON, ESQ., Attorney General's Office, State of Louisiana, Baton Rouge, Louisiana, for defendant.

* * * * * * *

[fol. 400] The witness, JOHN S. ALLEN, after having first been duly sworn to tell the truth, the whole truth, and nothing but the truth, so help him God, testified as follows:

By Mr. Dunbaugh:

Q. State your name, please.
A. John S. Allen.
Q. And your address, Mr. Allen?
A. Walters, Louisiana.

Q. You are the registrar of voters of LaSalle Parish?

A. Yes, sir.

Q. How long have you been registrar?

A. Approximately eight years.

Q. Do you remember when you were appointed, what date?

A. No, sir, not exactly.

Q. What year was that?

A. It was the latter part of '52, I believe.

Q. When you first became registrar of voters, what procedures did you adopt for the registration of voters?

A. You mean the exact way I went about registering them?

Q. Yes, sir.

A. Well, just the filling of the LR-1 card was my main procedure.

Q. That is the only thing that applicants were required to do at that time?

A. That was my main procedure, yes, sir.

Q. Were applicants at that time required to read and interpret any section of the Constitution?

[fol. 401] A. Not all of them, no, sir.

Q. Which ones were required to?

A. I believe I have given approximately a dozen Constitution tests in eight years.

Q. How do you determine to whom you will give the Constitutional tests?

A. Just occasionally—just—I don't know, just see if one could do it maybe or something like that.

Q. Do you recall when you first gave the tests?

A. I couldn't recall the date, no, sir.

Q. Could you tell me approximately when it was, the first date of the test?

A. I believe that would have been around '55 or '56.

Q. Now, when you give the interpretation test, how do you give it?

A. Present the Constitution book of Louisiana, let them read it, and tell me what it meant.

Q. Do you have them read more than one section?

A. No, sir.

Q. What section do you ask them to read?

A. No particular section, just pick out one when we open the book.

Q. How do you pick out the one that you are going to ask them?

A. Well, I don't know until I open the book. Maybe I'll catch one one time and another the next time.

Q. Do you have any particular method of deciding how [fol. 402] you are going to pick one out?

A. Yes, sir, I do. I have some different articles that I have written down, and I pick out one from those.

Q. Now, what articles are those?

A. Let's see, these are Article 19, Section 12.

Q. Any others?

A. Article 8, Section 8; Article 8, Section 21; Article 8, Section 2; Article 1, Section 2; Article 1, Section 7; Article 3, Section 33; Article 9, Section 3; Article 3, Section 3; Article 1, Section 2; Article 1, Section 8; Article 8, Section 3; Article 8, Section 5.

Q. Is that all?

A. That's all.

Q. Who selected those particular sections?

A. I did.

Q. How did you determine that you would use those sections and not other sections?

A. Well, these are the more simple ones, I thought—not long, drawn out twisters, I call them.

Q. When did you go through and pick out those sections?

A. Just in spare time.

Q. Did you do that when you first took office?

A. Yes, sir, sometime after I took office when I really found out that I had to do this.

Q. Now, when you give someone the interpretation tests, do you just open the book to one of those sections?

A. Yes, sir.

[fol. 403] Q. And then what do you have them to do?

A. Read it.

Q. Out loud?

A. Yes, sir—no, no, not out loud, just read it and give me the interpretation of what they read.

Q. Have you made any study to determine what those sections mean?

A. Just by reading them.

Q. You have read nothing other than the section itself?

A. Just the book?

Q. Yes.

A. That's right, I have read nothing else.

Q. Have you inquired of anybody?

A. Yes, sir.

Q. About the—of whom have you inquired?

A. I have inquired of my judge at the times that I could catch him in.

Q. What did he tell you?

A. He just told me what he thought they meant.

Q. It's not entirely clear to me how you determine whether or not you are going to give the interpretation tests to a particular applicant who walks in?

A. I give it to so few that there's no way to determine. If I'm real busy, I may give it or I may not; but there are very few applicants I give the Constitution tests to.

Q. Did your predecessor, as registrar, give the interpretation tests?

[fol. 404]. A. I wouldn't know.

Q. Did you have to take the interpretation test when you registered prior to the time you were registrar?

A. No.

Q. On what basis did you decide to give the tests?

A. Just that it was in the law that they must be able to read and interpret the Constitution, it was part of the registration procedure. And the reason I didn't give each one the test, I understood it to mean that they must be able to, and not that they must do it each time.

Q. Has anyone discussed this with you or have you inquired of anybody about this?

A. No.

Q. Have you ever given the test from some other source than from the book?

A. No, sir.

Q. Do you know a Mr. Moseley and a Mr. Hodges?

A. I know lots of Moseleys and Hodgeses. I guess you are referring to Mr. Sid Moseley?

Q. Yes, sir, and Mr. James Hodges.

A. Yes, sir.

Q. Who are they?

A. Who are they?

Q. Yes.

A. They are just citizens of LaSalle Parish, as well as I can answer. Hodges is, I believe, a member of the town council. Moseley was a retired trucker, I believe, I'm not [fol. 405] sure what his occupation was. He is now deceased.

Q. Do you know whether or not they were members of the White Citizens Council?

A. No, I don't.

Q. Did they at one time challenge your registration rolls?

A. Yes, sir.

Q. Do you recall when that was?

A. Not the exact date, no. I can—I can get it, though, if you'd like.

Q. Well, if you could give us a date on it, it would help us.

A. 29th of June in 1956.

Q. Do you recall approximately how many voters they challenged?

A. Yes, sir, 345 is the approximate number.

Q. And what ward did they challenge—what precinct?

A. That was Ward 4, Precinct 7.

Q. Did they challenge anybody in any other precinct?

A. No, sir.

Q. Where is that precinct located?

A. We don't have any definite boundaries for Precinct 7.

Q. It covers the whole parish?

A. Not—well, it doesn't cover the whole parish, but just the closest part of, and in Ward 4. It doesn't go out of Ward 4, anywhere in Ward 4.

Q. Is that the precinct that is reserved for all colored voters in Ward 4?

[fol. 406] A. I don't believe there is any other colored in another precinct in 4, no, sir, I'm sure there are not.

Q. Are there any whites in Precinct 7?

A. No, sir.

Q. Do you know approximately how many voters there were in Ward 4, Precinct 7 before they challenged?

A. No, sir, I don't know exactly. I mean, I could take—I believe I could estimate it close.

Q. Give us an estimate.

A. I think it was around 350 something—I'm not positive.

Q. Does it sound correct to you that they left only ten voters unchallenged at the precinct?

A. Yes, sir, it's something close to that.

Q. Did you ever use the interpretation tests prior to that time?

A. No, sir, I wasn't registrar long prior to that time.

Q. Did you first start to use the tests shortly after that time?

A. I gave two tests shortly after the challenging of the voters.

Q. Did anyone tell you at that time or suggest to you at that time that you should start giving the tests?

A. No, sir.

Q. It was purely your own idea to start giving the tests?

A. Yes, sir.

Q. Are the Negro voters in this parish still limited to a particular precinct?

[fol. 407] A. Not all of them, no.

Q. How many precincts are they in?

A. There are now four predominantly colored precincts.

Q. Do those precincts have any white people in them?

A. No, sir.

Q. And do those precincts have boundaries—true physical boundaries?

A. Not a one. I have one precinct that does have predominant boundaries in the parish.

Q. When you give the tests, do you make a record of what provision an applicant is required to interpret?

A. No, sir.

Q. Do you make any record of the answer that he gives?

A. No, sir.

Q. Are you a native of this parish?

A. Yes, sir.

Q. When were you born?

A. March the 27th, 1918.

Q. Did you go to school here?

A. Yes, sir.

Q. How many years of schooling did you have?

A. Eleven—no, not eleven years of schooling, eleven grades.

Q. In the interpretation tests what sort of an answer do you require?

A. Just the meaning of the test—I mean, the meaning of the section that they read.

Q. You don't ask questions to which they give a yes or [fol. 408] no answer or something of that sort?

A. No.

Q. It's a narrative answer, then, instead?

A. No, I don't ask them any questions. They read it and tell me in their own words what it means.

Q. You recited a list before of the sections that you asked about. Have you ever asked any other sections than those?

A. No, sir.

Q. Have you ever published a list of those sections?

A. No, sir.

Q. I have no further questions.

Mr. Dunbaugh: Mr. Kron?

By Mr. Kron:

Q. Mr. Allen, you said that you had given the interpretation tests about a dozen times in your entire eight years—

A. That's right.

Q. —in this office?

A. That's right, sir.

Q. Could you tell me how many of those approximately twelve people were Negroes?

A. Yes, sir, I know exactly; it was two.

Q. Do you mean to tell me that the test was only given to Negroes on two occasions in eight years?

A. That's right.

Q. And the other applicants were all white people?

A. Yes, sir.

[fol. 409] Q. Were both of the Negroes rejected?

A. No, sir, neither were rejected.

Q. In applying the interpretation tests on two occasions to Negroes in eight years, both of those Negroes passed the tests?

A. Yes, sir.

Q. And qualified to register to vote?

A. Yes, sir.

Q. That's all.

Witness excused at 9:11 A. M.

[fol. 411]

PLAINTIFF'S EXHIBIT No. 21B

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF LOUISIANA
BATON ROUGE DIVISION
Civil Action No. 2,548

UNITED STATES OF AMERICA, Plaintiff,
versus
STATE OF LOUISIANA, et al., Defendants.

DEPOSITION OF CLEIGHTON L. BUSHNELL, taken at instance of and on behalf of the Plaintiff: on August 24, 1962, in Rapides Parish Courthouse in the City of Alexandria, Louisiana.

* * * * * * *

[fol. 412] CLEIGHTON L. BUSHNELL, witness called on oral examination by Counsel for Plaintiff; first duly sworn, did depose and say, to wit:

Examination.

By Mr. Dunbaugh:

Q. State your name and address, please?

A. Cleighton L. Bushnell, Woodworth, Louisiana.

Q. And you are the Registrar of Voters of Rapides Parish?

A. I am.

Q. How long have you been Registrar?

A. I was sworn in June 13, 1956.

Q. Who was your predecessor, who was Registrar before you?

A. Sidney Campbell.

Q. When you first took office, did anyone explain to you what your job would be?

A. No.

Q. Did anyone go over with you the procedures for registration?

A. I went to the State Department of—the State Director, Douglas Fowler at that moment, and we went over the procedures of registration.

Q. What did Mr. Fowler explain the procedures to be?

A. Only those found in the acts of Louisiana, the laws of Louisiana, the various requirements for registration; the residential requirement and the age element.

Q. What procedure then did you adopt?

[fol. 413] A. The same procedure that I'm using today. The law requires that each applicant be a resident now for one year; at that moment it was two years in the state and one year in the parish. Currently it's one year in the state and six months in the parish; 21 years of age, of good character and—

Q. Well, what I was driving at, if I may interrupt, is: Just precisely what is an applicant required to do when he comes into your office?

The Witness: When he comes into the office for registration?

Mr. Dunbaugh: That's correct.

A. Our requirements are that they furnish some proof that they have been bonafide residents of the state and in the parish for the required time. They are also required to be able to give a reasonable interpretation of the parts of the constitution that we use, of the United States and of Louisiana; fill out their own application without any assistance, memorandum or discussion.

Q. After an applicant has established his residence, is he first required to interpret the constitution before he fills out the application form?

A. He is.

Q. And if he fails to do that satisfactorily, does he then go on to the application form?

A. If he fails to give what we feel to be at least a reasonable [fol. 414] able interpretation of the constitution, we inform them that they are not disqualified; but that they should go out—we advise them to get with someone to explain to them the various clauses that we require; and at any time, they have the right to come back and make application.

Q. Do you tell him which clauses you require?

A. We only use one, and have only used one since I have been there, one set; Article-1, Section-1; Article-1, Section-3; Article-1, Section-4 of the Constitution of the United States· Article-3, Section-29; Article-2, Section-1; Article-3, Section-20 of the State Constitution. This is the same procedure we have followed all the way through since I have been in office.

Q. You have in your hands a mimeograph sheet; may I see it, please?

A. Yes.

Q. In administering the interpretation test, do you use this mimeographed sheet?

A. Yes sir.

Q. In what manner do you use it?

A. We place that in the hands of the applicant; ask them to look it over and prepare themselves to give us a reasonable interpretation of any article included there, and it's before the applicant at all times.

In cases where we have those that contend they are un- [fol. 415] able to understand the words, the long words in there, we do explain to them, as best we can, the meaning of the words. There's only one that seems to be a problem to them, the word "adjourn" there is puzzling to many people; they misunderstand it, and we try to explain to them that that means to dismiss.

Q. After the applicant has looked this over, with the instructions that you just recited, what is he then required to do?

A. To give the interpretation as to the meaning of the various articles.

Q. He must give an interpretation of each of these articles?

A. Not necessarily; if they give us an interpretation of 2 or 3 and it's clearly indicated that person is understandable about what they are reading, well we go into the LR-1 card.

Q. Well, what I'm driving at is this: That after the applicant has read this over, what do you ask him to do?

A. I ask him to give me an interpretation as to the meaning. He still is in possession of this, he can refer down there and call off whatever one he is interpreting.

Q. In other words, the applicant may pick out any one of these and interpret it.

A. He can.

Q. And if he interprets one satisfactorily, is that sufficient—

A. Well, we usually require at least two; in some cases three where they foul up on one. Sometimes we can't under- [fol. 416] stand what they are driving at; and I mean by that, we have many applicants to come in, and they will read Article-1, Section-1, and say "The right to vote"; and I say, "All right, how about Article-3, Section-20?"—and they'll still say, "The right to vote."

We like to know that they do understand what they are reading here, and to give us an interpretation of it. Where they start in and give us a reasonable interpretation of one, and then go to the next one and do well; in most cases, well, that's about the extent of the constitutional test.

Q. In other words, if he does the first two correctly, then he won't be asked about any more?

A. He's usually stopped there.

Q. Does he pick out which two that the first two will be?

A. He has the preference. In most cases we find that they would like for us to question. We don't like to ask questions about it, because I might ask a question that would be confusing to what they have read.

We ask them to read it over; we don't require them to read the article or section to us. We first give them an opportunity to brief themselves, because I find that many people—it doesn't matter, in all walks of life—are unaware of the fact that on appearing in my office, they are required to undergo a test; and it throws them off, they become nervous. Sometimes we have to stop and talk to people to [fol. 417] get them collected before they are able to go on.

Q. Now, if the first two are not interpreted satisfactorily, do you stop them, or do you let them go on to the third or fourth?

A. We let them go on, and in trying to be fair to the applicant, we do not require that they give us what we deem to be a correct interpretation of all of them.

We found that some of them, one particularly—that is, Article-3, Section-29—has what I say is a dual meaning there; "Any member of the Legislature who has a personal or private interest in any measure or bill proposed or pending before the legislature, shall disclose the fact to the House of which he is a member, and shall not vote thereon." Well, it's confusing, and that one we never bear down on; and the reason I leave it in is that I've got so many of these mimeographed, and I didn't want to get up some more of them; but we realize that we are not an authority on the constitution, nor do I know that anyone is, but we do try to be fair to the applicant.

Our purpose in giving this—and, incidentally, this is required of each applicant that enters the office; the only exception that's made is where a person has been registered in another parish and has come into our parish, been here the required time; and if he presents us with a card showing they are on the rolls of some other parish, we as- [fol. 418] sume that they have already undergone this part of it, and we therefore waive it.

Now, that has confused my applicants, they're not understandable as to why we do it, and we have had fingers pointed at us and say; "You didn't require him—" or her, or whatever the case may be, but that's the only exception we have made.

Those people that come in and tell us that they are registered and do not have a card, we have no way of knowing whether they are registered or not; then they do have to undergo the constitutional test.

Q. How many of these sections would an applicant have to fail on consecutively before you would stop him, ask him not to continue?

A. Before I would stop him, he would have to fail [redacted] six of them.

Q. Does your deputy follow the same procedure?

A. As far as I know; while I'm in the office she does.

Q. How many deputies do you have?

A. One.

Q. What is her name?

A. Mrs. Thelma Daigre.

Mr. Dunbaugh: Mr. Kron, do you have any objection to attaching this to the record as an Exhibit?

[fol. 419] Mr. Kron: Not at all, I'll join with you in the offering.

Mr. Dunbaugh: Mr. Reporter, will you mark that as Exhibit P-1, please.

(Exhibit marked by reporter as instructed by counsel.)

Q. How old are you, Mr. Bushnell?

The Witness: My age?

Mr. Dunbaugh: Yes sir.

A. Fifty-six.

Q. Where were you born?

A. Eunice, Louisiana.

Q. How much education do you have?

A. High school and two years of business administration.

Q. Were you a registered voter in Rapides Parish before you became the Registrar?

A. No sir, I went to the office the first time when I was sworn in and given the keys.

Q. No, I meant were you a registered voter of Rapides Parish?

A. Oh, a registered; yes sir, I've been a registered voter in Rapides Parish since I become 21 years of age.

Q. The last time that you had to register to vote, what did you have to do?

A. Fill out my LR-1 card.

Q. Did you take the constitutional test?

A. No sir.

[fol. 420] Q. Is there any record made of the answers to the interpretations that an applicant gives?

A. No sir.

Q. You said that when an applicant was rejected that he was told to go out and study these provisions?

A. Yes sir.

Q. Is he permitted to take this copy of P-1 with him?

A. He is permitted to take down the articles and sections. We prepare this for their convenience; it isn't required that we even furnish them with a copy of this, but for their convenience—sometimes there's several in to register, and to speed up the activity we—even before the time comes, if we have a crowd we will pass them out ahead; but I don't feel that we are required to give them a copy of this, but we do permit them to take the article and section numbers. At the same time we inform them that should there be any change—you know, we have had numerous changes in the laws of our state, and we tell them that so far as we know that this is what they will face when they come back; but we wouldn't want them to feel that we were double-crossing them should there be a change that comes about.

Q. I believe you said that these sections have been the only ones in use since you've been Registrar?

A. These are the only ones. I found—and I imagine it was a practice before I came into the office, because in the [fol. 421] material I found, I found copies similar to this with written answers, and they were rather lengthy; and after studying, I picked out the ones that I felt like was fair to the applicant and fair to the law itself, and confined it to the ones that you have, that I've given you a copy of. I think that the Federal Department has seen this before, because I've been visited before; and they found this same set used, and it is the only one that we have used.

Q. You say that in studying or looking over the records of the office when you first took office, that there were questions, in addition to these, that were used?

A. Yes sir.

Q. Prior to your time?

A. Yes sir.

Q. And that the answers were written?

A. The answers were written on a sheet attached underneath each of the articles, and underneath there were answers. I suppose that the Registrar had prepared that so his deputy would be in a position to know what to accept.

Q. The answers were answers of the applicants, or answers that the Registrar had prepared?

A. Had prepared as being, I imagine, acceptable. I didn't talk to the man about it. I don't know whether it was Mr. Campbell or the deceased Mr. McCulley. You see, I was the fourth Registrar in a period of four years, or the fifth [fol. 422] one, rather. We had one to die in office, and then Mr. Campbell was appointed and served probably two years; and when he was terminated, I was appointed.

Q. But prior to your time, the applicants' answers were not recorded?

A. The question again?

Q. I say, the records in your office don't reveal that the answers of the applicants were ever recorded?

A. Oh, no. No, there's never been, to my knowledge, any written tests in the office.

Q. What instructions have you given your deputy with respect to what she should look for in the answers to these?

A. In going over this with Mrs. Daigre—we went over it after I hired her as deputy, which it was, I believe, some two weeks after I was appointed; and we went over it—Mrs. Daigre had worked for Mr. Campbell probably 6 or 8 weeks—in fact, she was in the office when it was closed.

In going over it with Mrs. Daigre, I told her that all that I expected, and I thought all that the law expected, was to process the applicants within the law, being fair to each applicant and not bearing down too heavy and wanting a verbatim on these things, that that would be confusing. We went over the articles and we discussed that, and at the same moment I instructed Mrs. Daigre that each applicant should be informed as to their rights, and to the [fol. 423] fact that their failure one time did not disqualify them, that they could come back even within the same day if they so chose. In the little better than six years, we have had—to my knowledge we've had no trouble. We see people in all walks of life and, of course, we have those that have a gripe, but it doesn't necessarily mean that its brought on by any pressure that we bring to bear. I think everybody has those, but—

Q. What sort of an answer do you require, is what I'm getting at? For instance, with Article-1, Section-3 would the simple "Freedom of Speech" be sufficient?

A. Any time they'll say "Freedom of Speech" or "Freedom of the Press", and bringing out the fact—we like for people to be aware of the fact that they are responsible for what they say; and should they just say, "That gives us freedom of speech and freedom of press," we may ask them the question, "With what provision?"—and then they'll refer back to the—that each person is responsible for what they say, and so forth.

Q. Suppose they said "Freedom of Speech" without any reference to press?

A. Well, that would be acceptable, but so seldom does that happen that I—

Q. For Article-1, Section-4, would "Freedom of Religion" be a sufficient answer?

[fol. 424] A. Yes sir; without any further ado, that is acceptable.

Mr. Dunbaugh: Mr. Kron, do you have any questions?

Examination.

By Mr. Kron:

Q. As a practical matter, Mr. Bushnell, in all of your years, how many people have been rejected solely because of this test?

A. Well, that would be rather hard—we don't keep a record of the number.

Q. Well, let's confine it, then, to a period of time within your immediate memory, and let me ask you: Could you approximate how many people have been rejected since, say, January of 1962, solely because of this test?

A. Since January of 1962, I have in mind two people that—they were not rejected, they came in and were unable to read and write; but we had three that I recall that were rejected the first time, and two of those have come back since and are now on the rolls.

Q. Do I take your answer then to mean that in the eight months of this year, 1962, that in your recollection there have only been approximately five people who have had difficulty solely because of this interpretation test?

A. No, I misunderstood your question. Now, we have many that will appear—I say many, it's not too great a per cent—that will look at that and tell us, "Well, I can't [fol. 425] do it, I don't have the education."

See, since the change in the law under the new constitutional amendments, whereby people that are unable to read and write are unable to register; well, we have quite a few people in Rapides Parish that are not educated enough to read and understand, not only this but the LR-1 form.

Q. But eliminating those who eliminate themselves by admission that they are unable to, let's think only in terms of those whom you have rejected for failure. Then, in that case, in your recent memory; say since January of this year, how many would you say were rejected because you failed them in your acceptance of their answers?

A. Well, I can only recall that original five that I'm talking about. See, in spite of the fact that our office is open full time, except for the day before an election, we're seeing so few people of both races, and that shows what our monthly activity is.

Q. Now, of those five people that you recall that failed because of your decision, you say that two of those have come back and qualified?

A. Two of those have come back and are on the rolls.

Q. So that there are only three, then, during this year, in your memory, that were failed by you?

A. Yes.

Q. Now, of those three, how many were negroes?

[fol. 426] A. Two of them were negroes. Now, that too is an unusual case; they mailed in a duplicate of the LR form. Someone had taken the LR form on a piece of bond paper similar to this, and in handwriting other than the signature that was on these papers I got, the copy had been completed and it was mailed in to me. At a later date this couple appeared and wanted to know why they hadn't been mailed a registration card; well, I didn't even answer. I kept the copies when I got them, I knew eventually I would probably see them; and when they asked why they had not been mailed a little white card—as they referred to it—the permanent card—they had probably seen the one that their neighbors had, or someone, and I told them that they were not registered.

They said, "Yes, we mailed it in," and then I recalled the mailing; and I looked up the envelope that contained these things and I said, "Are you the people that mailed this in to my office?"—and they said, "Yes." So I explained it to them; I said, "What you have done is not according to law. In the first place, the law of Louisiana required that each person appear in person and fill out their application card before the Registrar or his deputy."

I said, "Along with that, there is a requirement that you interpret the constitution"; and I said, "First I would have to have some proof as to whether you are a resident of Rapides Parish, whether you have been in the state and parish long enough."

[fol. 427] Well, they didn't have anything to confirm that they had been in Rapides Parish, or even in the State of Louisiana, long enough, except the fact that they were on the assessment rolls; and so I went on and I said, "Well, for the time being we will take that," and I gave a copy of this to each of them, gave this copy.

Well, they looked at it and said, "Well, we were told all we had to do was to come up to your office and pick our cards up." I said, "Now, that's not—"—it happened there were some people in the office then registering; and I said, "You can see these people have appeared, and they are now filling out their cards, they have already taken their constitutional test."

Q. Well, did they refuse to take this test? A. Well, each of them looked at it and came to me, and they said they would be back, that they didn't quite understand, but that they would be back; but to this date they haven't been back in.

Q. So that as a positive matter, they actually didn't fail the test?

A. They didn't fail, they just—

Q. They just simply didn't take it?

A. Uh huh, that's right.

Q. So that leaving, then, the results of this year, and eliminating the two others who have since applied and [fol. 428] become registered voters; there is only one person, during all of this year, who has been deprived of the right to vote by this procedure?

A. Uh huh. (Affirmative)

Q. And that is a white person?

A. Uh huh, it is a white person. We do have a greater number of white people who do come in; our colored activity in the past three years has been a little unusual, we see very few of them. The ones that we do see are usually capable of meeting any requirement.

They are processed exactly like any other applicant, the law only refers to an applicant as an applicant, and that's the way we have tried to handle it. In our discussion with the Judge, the Attorney General's Office and even with Mr. Pharis, I've always been informed that we were to be uniform in our activity, that there would be no—

Q. And from those three sources, has the advice also included the words, "To be indiscriminate in your application of the rules?"

A. That's correct, that's what I have been told, and what I have tried to practice.

Q. So that as a practical conclusion, then, the fact that there are not more negroes on your registration rolls is simply because of the fact that they do not appear to apply; is that correct, sir?

[fol. 429] A. That's correct; that's correct. We had our first four-year purge last October, and I think, if I'm not mistaken, we showed on our last monthly report 3,006 negroes; and the voter purge of October of last year, which was at the end of our four years—under the permanent registration laws, a person must vote at least once every four years.

So, in taking our inventory of the voters, we lifted all that had not voted, and that included over a hundred—I think it ran 140-some-odd negroes. Each person was mailed a mailing, notifying them that they were subject to being dropped; and names were also advertised, as the law requires, in the legal journal, giving them an additional ten days in which to appear for reinstatement if they were here. In that program I think we had some 5 or 6 negroes that came in and proved that they had been here, just had failed to vote. Well, they were merely reinstated, they were not required to fill out a new card or—

Q. By the word "purge", you mean your 4-year cleaning of the rolls, as required by law?

A. That's right.

Q. You do not mean a citizens' privately sponsored purge?

A. Oh, no; no, that's a duty that we are directed to do now. Now, maybe after this runoff, we will begin now taking an inventory; and all of the voters that we find that have failed to vote in a 4-year period, we notify them. That's a procedure that is followed.

[fol. 430] Mr. Kron: That's all the questions we have.

Re-examination.

By Mr. Dunbaugh:

Q. When a person is rejected for failure to interpret the constitution, is there a record made of that fact?

A. No sir.

Q. Is there any record that he has been in the office at all?

A. No. It isn't required by law, that I know of, to—

Q. Since he is given this before he is given the LR-1, if he fails this there would be no record that he has failed the test?

A. His LR-1 is retained if he fails on it, we have those.

Q. But doesn't he fill in the LR-1 after he has done this? Does he do this before he does the LR-1?

A. Yes sir.

Q. So that if he fails this, there is no record that he has visited the office?

A. No.

Q. Do you give any other tests, other than the LR-1 and this?

A. No, the only thing is that we have that card that they sign.

Q. The oath card?

A. The oath card.

Q. Do they have to read and write the preamble; does an applicant have to read and write the preamble?

A. No.

[fol. 431] Mr. Dunbaugh: That's all the questions.

Re-examination.

By Mr. Kron:

Q. Despite the questions that Mr. Dunbaugh has just asked you as to their being no record of those who failed the interpretation test, and subsequently do not get to the point of filling out an LR-1; your statistics on the five people we have talked about, since January 1, 1962, would include all of those within your memory, who were deprived of the right to vote because they failed this test?

A. That's right.

Q. It would not, of course, include all of those who refused to take the test—?

A. Oh, no.

Q. —and who failed themselves?

A. No, we have some that become indignant and really work us over on this, but we can't rope them and tie them down. Now, that's what they're asked, each applicant, and if they become indignant and walk out, well they're exercising their right to do so.

Q. And you have whites and negroes who do that?

A. Mostly whites.

Q. Mostly whites?

A. Uh huh. (Affirmative)

Mr. Kron: That will be all, sir.

Mr. Dunbaugh: That's all. Thank you, Mr. Bushnell.

Witness excused.

[fol. 432]

PLAINTIFF'S EXHIBIT NO. 21C

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF LOUISIANA
BATON ROUGE DIVISION
Civil Action No. 2,548

UNITED STATES OF AMERICA,
Plaintiff,

versus

STATE OF LOUISIANA, et al.,
Defendants.

DEPOSITION OF MRS. ORA CAMERON, taken at the instance of and on behalf of plaintiff herein; on August 23, 1962 in the Ouachita Parish Courthouse in Monroe, La.

• • • • • • •

[fol. 433] MRS. ORA CAMERON, witness called on oral examination by Counsel for Plaintiff herein; first duly sworn, did depose and say, to wit:

Examination.

By Mr. Dunbaugh:

Q. Would you state your name and address?

A. Mrs. Ora Cameron, Forest, Louisiana.

Q. Are you the Registrar of Voters in West Carroll Parish?

A. Yes, I am.

Q. How long have you been Registrar?

A. Since July of 1952.

Q. Are you a native of West Carroll Parish?

A. Almost, I've been there since I was two years old.

Q. Where did you come from originally?

A. Grayson.

Q. How much education do you have?

A. Just high school.

Q. When you first took office as Registrar of Voters, did anyone explain the job to you?

A. No one other than the Police Jury members. The previous Registrar had a habit of her own, filling out every application; no one had to fill the application out if they didn't want to.

Q. And what did the Police Jury explain to you?

A. That they were appointing me Registrar and that they [fol. 434] wanted me to abide by the laws of the State of Louisiana.

Q. What procedures, then, did you adopt at that time?

A. Well, we only had then the LR-1 application, form of application for registration, and I let those that had sufficient education complete the cards, fill their own cards out; and those that couldn't read and write, I believe at that time it was legal for them to register, if they could give you a reasonable interpretation of any section of the constitution that you picked out for them; and those people were allowed to register, and I filled their cards out at their dictation.

Q. Did you ask them about the constitution?

A. Yes, I did.

Q. What did you use to ask them, did you use a book?

A. A book just like this one. In those cases I would have to read it to them, you know; but I never mentioned the word "constitution" because I feel like that would frighten them.

Q. So, since that time you have started to ask all applicants about the constitution?

A. No.

Q. When did you start to do that?

A. Let me get this straight; in '56.

Q. Are the procedures you started using in '56 the same as they are now?

A. They are.

Q. And are they the same as they were for illiterates [fol. 435] prior to that time, other than that you read it aloud to them?

A. They are.

Q. Now, why did you start to use the interpretation test for all applicants?

A. Well, I believe all of the Registrars were called to a meeting, and I think it was in this courtroom, and they asked us all to go according to the laws of the State of Louisiana in registrations; and in that way then we shouldn't have any trouble, and asked us not to discriminate between anyone; and that's when I started using it, at the beginning of the new registration in '57.

Q. Who asked the Registrars to do this?

A. You know, I don't remember the men. I know Mr. Gremillion was here, and I guess Mr. Reynaud was our director then, Director of Voter Registration; and, oh, there were several men that I didn't know.

Q. For the record, I believe that's David R-e-y—how is his last name spelled, do you know?

A. I believe that's (spelled) R-e-y-n-a-u-d.

Mr. Kron: I think that's correct.

A. No, I don't believe Mr. Fowler was director then, but it's possible he was. I'm not sure whether it was Reynaud or Douglas Fowler, but I think—

Q. Was Senator Rainach present?

A. I don't know him. If he was here, I didn't know it.

[fol. 436] Q. I want to show you Appendix-B to the complaint in this case. These are cards containing provisions of the constitution—

A. I have a few of those cards there, I think they mailed us 50 of them, and I can't recall how many different cards there are in that 50; but I believe they were mailed from the Board of Registration, but I'm not sure about that.

Q. Were cards like that passed out at the meeting and a discussion held?

A. No, they were not; but I didn't use these cards but I guess maybe a week, and people began to write on them. We were not going to have any published, we were just going to let each person use them and then the next person use them, the cards; but they began to write on them, so we just started using that book and threw the cards away, we don't even have them.

Q. Now, your parish is on periodic registration?

A. Right.

Q. Have all applicants, since January 1, 1957, been required to interpret the constitution?

A. They have.

Q. If an applicant was required to interpret the constitution and successfully interpreted it, between 1957 and 1960; if he comes in to reregister during the 1961-1964 period, is he required to interpret again?

A. I give it to all of them.

Q. What procedure must an applicant follow when he [fol. 437] comes to register?

A. Well, unless he is either personally known to me or his name is familiar—if his face is not familiar, I usually ask him his name; and if it's a name that I've heard or I know that he has been registered, I don't require identification; but if it's an unusual name, someone that I've never heard of, well I explain to him that he will have to have identification.

Q. Then what is the next step after they identify themselves?

A. Give them an application, and if they complete the application and when they hand it to me, I ask them if they are through with it and they say yes; and if I see errors on there I ask them to recheck it, I give them a chance to make the correction on the affidavit; and if they tell me they don't have any errors on there, that they don't see any errors, then I tell them that I'm sorry, that there are errors there, and that if they want to they can come back later and try again. I don't give them a constitution test when they fail the application.

Q. If their application is satisfactory, then what do you do?

A. I give them the constitutional test.

Q. And how do you do that?

A. Just pick up this book and probably turn to the dirtiest page in there, the ones that we've used mostly.

Q. And do you hand them the book then?

[fol. 438] A. Right.

Q. What do they do then?

A. They will read it, and sometimes they will say, "Well, I don't know what you mean;" and I'll say, "Just tell me in your own words what you get out of reading that article there?"

Then if they tell me enough that I know that they have an understanding of that particular section, I will accept it; because I tell them they don't have to use any fancy words, to just tell me in their own words.

Q. Do they read it out loud?

A. They can if they want to. They will usually ask me—when I tell them, I'll say, "Read this, and then in your own words tell me what you think it means." They'll say, "Read it aloud?" I'll say, "Well, you don't have to."

Now, if there is no one in there, they do read it aloud, but if there's others in there they don't; but they are not required to read it aloud.

Q. Are they permitted to keep the book and continue looking at it when they offer their explanation?

A. That's right. If they tell me they don't understand it, I say, "Read it again, because I'm sure you've heard of it all your life."

Q. If they don't understand a word and ask for a definition of the word, will you explain the word to them?

[fol. 439] A. I will, especially on the LR-1; a lot of them say, "I'm afflicted with—" and I'll tell them that that's affiliated, that that means whether they're Democratic or Republican. Maybe I'm going too far there to tell them, but I do tell them.

Q. Do you tell them also in the constitution, what a word means if they ask?

A. Well, yes, I have told them, but there are not too many of these that the average person couldn't tell.

Q. Now, do you ask about all sections of the constitution, or particular sections?

A. Just particular sections.

Q. Do you know which ones they are?

The Witness: Do you want me to pick them out for you?

Mr. Dunbaugh: If you would, please.

A. All right. I use Article-1, No. 2, 3, 4, 7, 10, 11; and I know there is a Section 29 here that's a very simple one.

Q. The first ones that you were reciting were from the Bill of Rights—

A. The Bill of Rights, yes.

Q. —of the State of Louisiana?

A. That's right, yes—and this Section-29 under Article -3.

Q. Of the Louisiana Constitution?

A. Yes, I don't have a United States Constitution, I use a Louisiana Constitution altogether.

[fol. 440] Q. How did you happen to select those particular provisions?

A. Well, they seemed to be more self-explanatory, easier and what I felt like the average person could tell me; because I really don't want to give a test to somebody just to fail them, just to see them fail.

Q. Have you always limited it to these sections?

A. Yes, I have.

Q. When you first started to use the test, did anyone explain to you how the test should be administered or what—

A. I discussed it with an attorney that we have there, he's just across the hall from me. I wanted to be able to know what I was talking about, and when they gave their interpretation, I wanted to know whether they knew what they were talking about.

Q. Did this attorney help you select these sections?

A. No, he did not; maybe he didn't even—well, I'm sure he didn't, we didn't even check on all of them, just maybe one particular one that I had asked him to explain to me, what he felt that meant; but I did not check with him on all of them.

Q. But he went over some of these sections with you and explained them to you a little bit?

A. Oh, nothing only just one that I asked him, maybe one that I asked him; but I did discuss it with an attorney.

Q. In determining that you would administer the test in [fol. 441] this manner, was that your own determination?

A. It was, because I've never had any outside influence or interference at all.

Q. And in determining whether an answer is satisfactory, are you the sole judge of that?

A. Unless my deputy is there, and if she is working she has the same responsibility in accepting an application that I have.

Q. Do you know whether or not she uses the same sections?

A. I'm sure she does.

Q. What is her name?

A. Mrs. Olive Primm.

Q. Have you ever instructed her as to how she should use the test?

A. No, other than when she first started to work I explained to her what the procedures of registration were, and I told her we wanted to run our office fair and impartially; and I have all the confidence in the world in her, I think that's what she is trying to do.

Q. Is there any record kept of the provision an applicant is asked to interpret?

A. Only if he fails, there is a notation made on the back of his card.

Q. The LR-1 card?

A. Right.

Q. A notation of the provision?

[fol. 442] A. And section.

Q. Is there any record kept of the answer that he gave?

A. No.

Q. Whether he passed or failed?

A. Oh, if he fails there is no answer kept, or if he passes there is no answer kept; but there is only a notation made on the back of the card for those who failed the constitutional test.

Q. How do you determine which section you are going to ask a particular applicant?

A. Well, there is really no way to determine it, just open your book and hand them one. If you're going to be fair about this thing, there is no way to determine it, you don't want to just sit up there and pick out something hard for somebody just because maybe they aren't as well an educated person as you are.

Q. From among those that you use, how do you decide that one person is going to get Section-6 say, and somebody else 7?

A. Well, I feel like one is about as easy as the other.

Q. What sort of an answer is satisfactory to you?

A. Well, I tell them usually, "In a very few words, just give me your interpretation"; and just so that I know that they have gotten the meaning of it, of the particular section that I gave them; and then there is sometime they will say, "Well, I don't believe I know that one." I'll say, "Well, [fol. 443] try the next one down, see if you know it."

Maybe I don't even know what it is myself, but I give them a chance to—you know—try another one; because they have the book in their hands, and I wouldn't even know what the next one is maybe.

Q. Is each applicant advised as to whether or not he passed or failed?

A. He is.

Mr. Dunbaugh: That's all. Mr. Kron, do you have any questions?

Examination.

By Mr. Kron:

Q. Mrs. Cameron, how many people are registered in your parish at this time?

A. I have figures here that it's 2,300-and-something as of the date my books closed, if I can find it; 2,346.

Q. All right, how many of those are negroes?

A. Twenty-five.

Q. Now, since the beginning of your new registration period in 1960, how many people have been rejected?

A. All right. I have had 32 colored that was rejected; 14 of those came back later and qualified, and of those 14 there was two had failed on the constitutional test and 12 had failed on the application.

Q. So, only two negroes have failed—

[fol. 444] A. Now, 18 of those original 32 have not come back and applied for registration.

Q. I see, but only two negroes—

A. Now, it was four of those failed. In fact, I have had six to fail the constitutional test out of the 32, but two of them came back and passed it, so it leaves just a total of 4 that have failed the constitutional test. Now, the whites, do you want those or not?

Mr. Kron: Yes.

A. We've had 15 rejected that have returned and registered; one failed the constitutional test, and 14 failed on the application; and I have 60 whites that failed, and they have not returned. Five of those failed the constitutional test and 55 failed on the application.

Q. Has there at any time been any use of the constitutional interpretation test to keep negroes off of the rolls in your parish?

A. No.

Mr. Kron: That's all.

Mr. Dunbaugh: That's all, thank you very much, Mrs. Cameron.

Witness excused.

[fol. 445]

PLAINTIFF'S EXHIBIT No. 21D

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF LOUISIANA
BATON ROUGE DIVISION
Civil Action No. 2,548

UNITED STATES OF AMERICA,
Plaintiff,
versus
STATE OF LOUISIANA, et al.,
Defendants.

DEPOSITION OF MRS. LULA CHEEKS, taken at the instance of and on behalf of Plaintiff herein; on August 23, 1962 in the Ouachita Parish Courthouse in Monroe, La.

[fol. 446] MRS. LULA CHEEKS, witness called on oral examination by Counsel for Plaintiff herein; first duly sworn, did depose and say, to wit:

Examination.

By Mr. Dunbaugh:

Q. Please state your name and address?

A. Lula Cheeks, Mangham, Louisiana.

Q. And you're the Registrar of Voters of Richland Parish?

A. Yes sir.

Q. How long have you been Registrar?

A. Since 1945; February, I believe.

Q. When and where were you born?

A. Mangham, Louisiana.

Q. Have you always lived in Richland Parish?

A. Yes.

Q. What education do you have?

A. I completed my sophomore year in college.

Q. When you first took the office, did anyone explain to you what your duties would be?

A. I became Deputy Registrar in '44, my husband was Registrar then; and when he went in Service he explained what he knew about the office, and I took charge.

Q. What were your procedures at that time?

A. The LR-1 form and signing the register book.

Q. And no other requirements?

[fol. 447] A. No.

Q. Have you changed the procedure since that time?

A. Yes.

Q. When did that change occur?

A. In 1957 I began using the constitutional test, January of 1957.

Q. Have you had a purge of the voter registration rolls, in late 1956?

A. Yes. Not a complete purge, but a couple of wards were purged.

Q. Were those predominately negro wards?

A. No, they were my bigger wards.

Q. In Rayville?

A. In Rayville and in Delhi.

Q. What procedure did you adopt in January, 1957?

A. I began to use the constitutional test, orally.

Q. And has your procedure changed since 1957?

A. Well, if they had the constitutional from '57 to '61, I don't give it to them when they return for registration; those people that had it don't get it the second time.

Q. To clarify that, you have periodic registration?

A. Yes.

Q. And you had a complete new registration starting in January, 1957, and then again in January, 1961, is that correct?

[fol. 448] A. Yes.

Q. Now, what is the order of procedure in the registration of voters in Richland Parish?

The Witness: Now; when they enter the office, what do they do?

Mr. Dunbaugh: Yes.

A. I give them the oath card and the LR-1 form, and when they have completed that, if they are a new registrant I give them the constitutional test.

Q. Do you first examine the LR-1 form to see that it is correct?

A. Yes.

Q. Before you give them the interpretation test?

A. Usually, I do.

Q. And if it's not, then they are turned away before they get to the constitution?

A. I don't believe, I believe I just go—generally I just go ahead and give them the constitutional test, to convince them too. I believe I always do give them—

Q. So that no final determination is made as to whether or not they have qualified, until they have gone through the entire process?

A. That's right.

Q. And with persons registering for the first time, at least for the first time since January, 1957, this procedure has not changed since January 1957?

[fol. 449] A. Well, the legislature last time added that we give them the preamble; read and write a portion of the preamble, and I do that.

Q. What preamble do you ask them to read and write, the preamble to the United States Constitution?

A. To the United States Constitution.

Q. Why did you first adopt the interpretation test?

A. Well, after my rolls were purged, I decided that when they were in there I was going to do everything that was written in the laws, as nearly as possible, and that's just since that time. Of course, that was in October of '56 that my rolls were purged, and the books—we didn't have many more registrations then. In January of '57 is when I began doing as nearly as possible everything that was required.

Q. Did anyone suggest to you that you do this?

A. Well, yes, I guess so. Being upset over the purge of the rolls, naturally I talked to my Police Jury, and they said all I could do was follow the letter of the law; and I talked to the other Registrars too, I just talked shop everywhere I went.

Q. Did anyone other than the Police Jury people talk to you about it?

A. Yes. As Mrs. Hatten said, at our convention we've always had a forum, and we've been encouraged to stick [fol. 450] far more closely to the letter of the law.

Q. You were encouraged by whom?

A. Well, usually we divided into two schools of instructions, periodic and permanent, and different ones have lead us in our discussions. I really don't know, sometimes the President of the convention maybe, it seems like; but they have been different ones, Mr. Jody Smith for one, and just different ones that have studied the laws closely; and we all joined in the discussion, and it wasn't really headed by anyone—I mean, it was headed by one particular one, but it was for everyone to join in.

Q. These are the state-wide conventions of Registrars?

A. Yes.

Q. And it's sponsored by the State Board of Registration?

A. Yes.

Q. Now, in administering the interpretation tests, what source do you use for the clauses that you ask about?

A. I use the Louisiana Constitution and the United States Constitution, and I use—do you want to know the clauses that I generally use?

Q. Well, do you use books?

A. Uh huh. (Affirmative)

Q. Some of the books that are right in front of you?

A. Yes sir, I have one just like this.

Q. Do you limit the clauses that you ask about? Do you [fol. 451] ask about all of the clauses in the two books—?

A. No sir.

Q. —or do you use particular clauses?

A. I just use several particular clauses.

Q. Which clauses are they?

A. Several from the Bill of Rights; Freedom of Religion, Freedom of Speech and then others that I use a lot; qualifications for Governor, qualifications for Senator, those that I think just the average person can read and get an idea from.

Q. Now how about from the Federal Constitution?

A. Well, the first ten amendments.

Q. Do you use any provisions more than others, do you have favorites that you use?

A. I have favorite amendments. I don't use them for any particular person, if that's what you mean.

Q. No, I meant are there particular provisions you use?

A. But if you'd see my constitution, you can tell my favorite amendments there.

Q. Which ones are they?

A. Freedom of speech, freedom of religion, those that I mentioned.

Q. How did you determine that you would ask these, rather than ask others?

Mr. Kron: I think she's answered that question hasn't [fol. 452] she? Go ahead.

A. Well, it just seems to me that those are just the ones that people have heard about, whether they've been to school or not; I mean, if they've just had a minimum education, they've heard of those rights.

Q. How do you determine which of these sections you're going to ask a particular applicant?

A. It's really just hit or miss; just pick up the constitution and open to it and, I have let them pick out their own section that they want.

Q. Do you always let an applicant pick out his own section?

A. No, but if they seem to think that I've just picked a particular one, I have gone further and let them pick out another one.

Q. Do you always let them pick out a section, if they request to pick out a section?

A. I don't believe I've ever denied anybody. Too many haven't asked; I can recall a few, but I don't believe I've ever denied them the right.

Q. Then what is the applicant to do?

A. Just what he got out of the section.

Q. Does he read it; you hand him the book?

A. Uh huh. (Affirmative)

Q. Does he read it aloud?

A. He reads it to himself.

[fol. 453] Q. And then what does he do then?

A. Well, he just tells me what he got out of it.

Q. Orally?

A. Orally, yes.

Q. Is there any record made of what section he was asked to interpret?

A. If he passes the test, no. Generally, if he fails the constitutional test, I believe without exception he has already failed on the LR-1 card; but to convince myself that he's not qualified, on the back of the card I put what section of the constitution he had, but I don't put the answer he gave me, I just—

Q. That's on the back of the LR-1 card?

A. Yes, generally.

Q. Have you done this consistently since 1957?

A. Well, when I said generally, I'm not sure that on every card I've listed the section of the constitution. On some I have, but I'm not sure that I have on each one.

Examination.

By Mr. Kron:

Q. Have you done that on the majority of those who failed for that reason, would you say?

A. I haven't failed many for that reason, but I believe—

Q. On the majority of those who have—?

A. I don't believe that I've failed a one on the interpre- [fol. 454] tation test, who had the LR-1 card right. I'd really have to check my reject cards to see, but I don't think I failed a one on the constitutional test.

Q. You have a file on the reject cards?

A. Yes sir.

Q. Has the United States Government made copies of those?

A. No sir, not yet.

Examination.

By Mr. Dunbaugh:

Q. In determining that you would administer the test in this manner, has this been your own decision?

The Witness: The method that I use?

Mr. Dunbaugh: Yes.

A. Yes.

Q. And in determining whether or not an interpretation is satisfactory, are you the sole judge of that?

A. Well, yes sir, and the applicant too. The applicant usually knows whether he knows what he's read or not, and will admit that he doesn't know what's there.

Q. What is satisfactory to you?

A. "Freedom of religion"; many of them have said I can go to the church I belong to, that's satisfactory. Is that an idea of what you wanted?

Q. Yes. If an applicant, in reading one of those sections, asks you to explain a word to him, will you explain it?

[fol. 455] A. I don't believe.

Mr. Dunbaugh: I think that's all.

Examination.

By Mr. Kron:

Q. Has that ever become necessary?

A. I don't believe so. I—I don't believe so. I'm really not sure of that question, I just don't recall offhand. If they asked me a word, I probably told them; I just don't recall.

Q. Did I understand you to say that you chose the favorite clauses that you use for interpretation, for the reason that you wanted to give even an unschooled and an uneducated person an opportunity and a fair chance to qualify to vote?

A. Yes sir. I mean, I don't want to put it—I don't want to ask a question on the level that is above the majority of people.

Q. And if an uneducated negro would come in, the test given to that person would be one of the simple clauses, in order to give him a fair opportunity to qualify and understand what he was talking about?

A. There is no difference in the test that I give to the whites and to the colored.

Q. I see. Did I also understand you to say that in your memory, and you have reject files to bare this out; that no person has failed to register because of failing the constitutional interpretation test, who also has not properly [fol. 456] filled out the LR-1 card?

A. I don't believe there's a single rejection.

Q. All right. So that, effectively, anyone who is able to qualify by filling out your LR-1 card, has also been able to qualify under the interpretation test?

A. Yes sir, except let me go back, because prior to when the Legislature passed the law that no illiterate could register, we could register illiterates that could give a reasonable interpretation of the constitution; and I had 16 illiterates in my parish to register by interpreting the constitution from dictation.

Now, that would make that statement untrue, and yet it is true since this registration began, because since this registration began we can't register illiterates that weren't registered prior.

Q. How many do you have on your rolls now?

A. About 3,997 I think, close to 4,000.

Q. How many are negroes?

A. About 215 negroes.

Q. Why are there not more negroes on the rolls, in your opinion?

A. They just haven't come in to register.

Q. Have there been a high percentage of negroes denied registration?

A. No sir.

Q. Do more of them who apply become registered than [fol. 457] are turned down; negroes, I mean?

A. I only—yes sir. Now, wait a minute, I'm sorry, I'm mixed up.

Q. Just using the negro applicants, as they apply are more of them accepted than are rejected?

A. Yes sir.

Q. What percentage would you say?

A. Well, I only have 24 that have been rejected since '61, for various reasons, for reasons—criminal reasons, you know, and other reasons; but 24 negroes and 14 whites have been rejected since the new registration began.

Re-examination.

By Mr. Dunbaugh:

Q. You said that you only asked about particular provisions of the constitution, that you limit your questioning to certain provisions. Have you ever published a list of those provisions?

A. No.

Re-examination.

By Mr. Kron:

Q. Is there any requirement in the law that you do publish those provisions?

A. No.

Mr. Kron: That's all.

Mr. Dunbaugh: That's all, thank you.

Witness excused.